

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-10900
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ISSAC ORAL CHANDLER,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:13-CR-9-1

Before WIENER, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Issac Oral Chandler appeals one aspect of the sentence imposed following his guilty plea conviction for uttering counterfeit obligations of the United States. Specifically, he challenges only the written judgment's requirement that he contribute a minimum of \$35 per month toward the cost of his participation in a substance abuse treatment program which is higher than the \$25 orally pronounced.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Chandler had no opportunity at sentencing to object to the special conditions of supervised release in the written judgment; therefore, review is for abuse of discretion. *United States v. Bigelow*, 462 F.3d 378, 381 (5th Cir. 2006). The sentencing transcript reflects that the district court orally instructed Chandler to contribute at least \$25 per month toward the cost of his substance abuse treatment services. As the Government concedes, an actual conflict exists between the oral and written judgments. *See United States v. Wheeler*, 322 F.3d 823, 828 (5th Cir. 2003). Therefore, the oral pronouncement of sentence controls. *See Bigelow*, 462 F.3d at 381.

Accordingly, the Government's unopposed motion to reform the judgment is GRANTED. We MODIFY the district court's judgment to reference minimum monthly payments of \$25 for Chandler's participation in a substance abuse treatment program during his term of supervised release. *See* 28 U.S.C. § 2106. We AFFIRM the judgment as modified. *See United States v. Mondragon-Santiago*, 564 F.3d 357, 369 (5th Cir. 2009).

AFFIRM as modified; GRANT motion to reform.

HAYNES, Circuit Judge, concurring: I concur in the court's judgment. I write separately simply to note that this situation appears to be either a "clear error" of the type referenced in Federal Rule of Criminal Procedure 35(a) or a "clerical error" as described in Federal Rule of Criminal Procedure 36. In my view, it would have made more sense to raise the matter with the district court through a motion under one of those rules than to take the time and expense of filing an appeal and accompanying brief in our court.