

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

No. 14-40562
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 18, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

ANTONIO MALDONADO,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:12-CR-175

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

Antonio Maldonado appeals the 180-month sentence for his conviction for being a felon in possession of a firearm. He contends that the district court failed to recognize its authority to depart pursuant to 18 U.S.C. § 3584 and U.S.S.G. § 5G1.3(c), p.s. (2013) below the mandatory minimum sentence in 18 U.S.C. § 924(e)(1) to credit him for the time he spent in state custody prior to his federal sentencing.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Contrary to his argument, Maldonado did not preserve this claim. *See United States v. Neal*, 578 F.3d 270, 272 (5th Cir. 2009). Thus, plain error review applies. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

We may only review the district court's decision that it lacked authority to depart. *United States v. James*, 468 F.3d 245, 246-47 (5th Cir. 2006) (*per curiam*); *United States v. Sam*, 467 F.3d 857, 861 (5th Cir. 2006). None of the authorities relied on by Maldonado clearly authorize a departure below the mandatory minimum sentence. Thus, even if the district court erred, the error was not plain. *See Puckett*, 556 U.S. at 135.

The judgment of the district court is AFFIRMED.