

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

No. 14-41316
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 7, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ROLANDO BERNARDEZ-AVILA,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:14-CR-258

Before SMITH, BARKSDALE, and PRADO, Circuit Judges.

PER CURIAM:*

Rolando Bernardez-Avila challenges the district court's reimposing a \$100 special assessment, following revocation of his supervised release. Revocation sentences are reviewed under a plainly unreasonable standard. 18 U.S.C. § 3742(a)(4); *e.g.*, *United States v. Miller*, 634 F.3d 841, 843 (5th Cir. 2011). The transcript from the revocation hearing reveals the reimposition of the special assessment is contrary to the oral pronouncement and the evidence

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

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presented at the hearing. Therefore, as the Government concedes, a conflict exists between the oral and written judgments. In such a case, the oral pronouncement controls. *E.g., United States v. Martinez*, 250 F.3d 941, 942 (5th Cir. 2001).

VACATED IN PART and this matter is REMANDED for amendment of the written judgment by deleting the reimposition of the \$100 special assessment.