

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 14-50807
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 11, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

FILIBERTO MASCORRO-CRUZ,

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas
USDC No. 3:14-CR-680-1

Before KING, JOLLY, and HAYNES, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that appellee's unopposed motion to remand case to the district court to modify the written judgment to conform with the oral pronouncement is GRANTED. At sentencing, the district court stated that it

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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“would order up to 1 year of intermittent confinement to be imposed *only upon a violation of the conditions of your supervised release.*” (emphasis added). The district court’s written judgment states: “The defendant shall remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense, during the first year of probation or supervised release as ordered by the Court.” Mascorro-Cruz’s sentence is VACATED in PART, and this matter is REMANDED to the district court with instructions to conform the written judgment to the oral pronouncement at sentencing. *See United States v. Torres-Aguilar*, 352 F.3d 934, 935 (5th Cir. 2003). The judgment, as so modified, is AFFIRMED.

IT IS FURTHER ORDERED that the appellee’s alternative motion to extend time to file brief of appellee for 30 days from the denial of the motion to remand is DENIED.