

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

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No. 19-50571  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 8, 2020

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BRYAN JESUS MONTOYA-ROSADO,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:19-CR-60-1

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Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:\*

Bryan Jesus Montoya-Rosado appeals his sentence following his guilty plea conviction for aiding and abetting the importation of marijuana and aiding and abetting the possession of marijuana with intent to distribute. He contends that the district court erred by sentencing him less than 35 days after disclosure of his presentence report (PSR). Under Federal Rule of Criminal Procedure 32(e)(2), the probation office must disclose the PSR to the defendant

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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at least 35 days prior to sentencing unless the defendant waives the minimum notice period.

Because Montoya-Rosado failed to object on this basis in the district court, we review for plain error. *See United States v. Esparza-Gonzalez*, 268 F.3d 272, 274 (5th Cir. 2001). Even if the district court erred, Montoya-Rosado fails to demonstrate a reasonable probability that he would have received a lower sentence; thus, he fails to show that any error affected his substantial rights. *See Molina-Martinez v. United States*, 136 S. Ct. 1338, 1343 (2016).

AFFIRMED.