

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 11, 2021

Lyle W. Cayce
Clerk

No. 20-20394
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

SAMUEL DAVID CORTEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:19-CR-559-1

Before DAVIS, STEWART, and DENNIS, *Circuit Judges.*

PER CURIAM:*

Samuel David Cortez pleaded guilty, pursuant to a plea agreement, to a superseding criminal information charging him with three counts of interference with commerce by robbery and one count of attempted interference with commerce by robbery. The district court sentenced Cortez

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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to concurrent terms of 121 months of imprisonment and three years of supervised release. Cortez argues that the Government plainly breached the plea agreement by failing to request dismissal of the original indictment at sentencing.

“The Government must strictly adhere to the terms and conditions of its promises in a plea agreement.” *United States v. Harper*, 643 F.3d 135, 139 (5th Cir. 2011). Based on our review of the record and the briefs, including the Government’s concession of reversible error, we agree that Cortez is entitled to relief. *See id.* Accordingly, the case is REMANDED to the district court for the limited purpose of entering a corrected judgment reflecting dismissal of the original indictment. The judgment is AFFIRMED in all other respects.