

United States Court of Appeals  
for the Fifth Circuit

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No. 23-40367  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 12, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ERIC DESIMOND THOMAS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:18-CR-1223-1

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Before JONES, SMITH, and DENNIS, *Circuit Judges.*

PER CURIAM:\*

Eric Desimond Thomas appeals the sentence imposed following the revocation of his supervised release. He asserts that the district court's oral pronouncement, which did not include a condition of supervised release involving alcohol, conflicts with the condition of supervised release in the

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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written judgment, prohibiting him from using or possessing alcohol. The Government agrees with Thomas that there is a conflict.

Because Thomas could not have known of the discrepancy between the oral pronouncement and the written judgment until he received the written judgment, our review is for abuse of discretion. *See United States v. Grogan*, 977 F.3d 348, 352 (5th Cir. 2020). “Where there is an actual conflict between the district court’s oral pronouncement of sentence and the written judgment, the oral pronouncement controls.” *United States v. Mireles*, 471 F.3d 551, 557 (5th Cir. 2006). A conflict arises when the written judgment imposes more burdensome conditions or broadens the restrictions or requirements of the orally pronounced conditions. *Id.* at 558; *United States v. Bigelow*, 462 F.3d 378, 383 (5th Cir. 2006). Here, the written judgment’s condition of supervised release prohibiting Thomas from using or possessing alcohol is more burdensome than, and therefore conflicts with, the district court’s oral pronouncement, which did not include a condition of supervised release involving alcohol.

Accordingly, the judgment of the district court is VACATED in part, and the matter is REMANDED to the district court for the limited purpose of conforming the written judgment with the oral pronouncement of sentence by removing the unpronounced condition of supervised release involving alcohol. In all other respects, the judgment of the district court is AFFIRMED.