

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 27, 2025

Lyle W. Cayce  
Clerk

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No. 24-10666  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CHRISTIAN MONSIVAIS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:21-CR-14-1

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Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

Christian Monsivais appeals his 21-month sentence of imprisonment imposed on revocation of his supervised release. He argues that his sentence is substantively unreasonable because his underlying conviction is now

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

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unconstitutional in light of *United States v. Daniels*, 77 F.4th 337 (5th Cir. 2023).<sup>1</sup>

We review Monsivais’s revocation sentence to determine if it is “plainly unreasonable.” *United States v. Fuentes*, 906 F.3d 322, 325 (5th Cir. 2018). We review the substantive reasonableness of the sentence for an abuse of discretion. *United States v. Miller*, 634 F.3d 841, 843 (5th Cir. 2011).

A defendant may not use a revocation appeal to challenge the underlying criminal conviction and sentence. *United States v. Willis*, 563 F.3d 168, 170 (5th Cir. 2009). While Monsivais relies on the narrow exception to that rule set out in *Willis*, his reliance is misplaced given the marked factual differences between the two cases. *Id.* (limiting the holding’s precedential value “to cases presenting indistinguishable facts in all material respects”).

Accordingly, the judgment of the district court is AFFIRMED.

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<sup>1</sup> *Daniels* was subsequently vacated and remanded for further consideration in light of *United States v. Rahimi*, 602 U.S. 580 (2024). *United States v. Daniels*, 144 S. Ct. 2707 (2024). On remand, we held that 18 U.S.C. § 922(g)(3) was “unconstitutional as applied to Daniels unless the government can show that Daniels was disarmed for reasons above and beyond habitual or occasional marihuana use.” *United States v. Daniels*, 124 F.4th 967, 975 (5th Cir. 2025).