

United States Court of Appeals
for the Fifth Circuit

No. 24-20433
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 27, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARL EDWARD PRESTON, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CR-14-3

Before BARKSDALE, STEWART, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

In contesting the district court's revoking his supervised release, Carl Edward Preston, Jr., contends only that the revocation judgment contains a clerical error concerning his payment schedule for restitution. The Government agrees.

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

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The claimed clerical error relates to a discrepancy in the repayment term provided in Preston’s earlier criminal judgment and the revocation judgment. In his earlier criminal judgment, Line D of the Schedule of Payments sheet provided that payment was due “in equal monthly installments of \$200 over a period of 34 months, to commence 30 days after release from imprisonment to a term of supervision”. In contrast, the corresponding provision in the revocation judgment’s Schedule of Payments sheet provides that payment is due “in equal monthly installments of \$200 over a period of 36 months, to commence 30 days after release from imprisonment to a term of supervision”.

Under Federal Rule of Criminal Procedure 36, our court may review a judgment *sua sponte* for clerical errors and remand for the limited purpose of correcting them. *United States v. Illies*, 805 F.3d 607, 610 (5th Cir. 2015). A clerical error occurs “when the court intended one thing but by merely clerical mistake or oversight did another”. *United States v. Buendia-Rangel*, 553 F.3d 378, 379 (5th Cir. 2008) (citation omitted). Based on our review of the record, the parties are correct: the revocation judgment should refer to the same 34-month period in Line D of the earlier criminal judgment; the discrepancy is a clerical error in the revocation judgment. *See* FED. R. CRIM. P. 36; *Buendia-Rangel*, 553 F.3d at 379.

AFFIRMED in part; REMANDED to correct the clerical error in the revocation judgment.