IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7232
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

REYNALDO GONZALEZ,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR 88-00246-05

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(December 15, 1993)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:[*]

Reynaldo Gonzalez challenges, in a motion we construe as one under 28 U.S.C. § 2255, the district court's imposition of a term of supervised release for a conspiracy conviction under 21 U.S.C. § 846.

Although 21 U.S.C. § 846, at the time of Gonzalez's offense, did not require the imposition of supervised release, 18 U.S.C. § 3583 did authorize it. See United States v. Badger, 925 F.2d 101, 105 (5th Cir. 1991). Thus, Gonzalez's sentence was legal.

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[*] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Gonzalez further argues, for the first time on appeal, that the trial court erred by incorrectly advising him that a term of supervised release was not applicable to conspiracy convictions under 21 U.S.C. § 846. Errors raised for the first time on appeal are not reviewable by this Court absent plain error. See United States v. Brunson, 915 F.2d 942, 944 (5th Cir. 1990). "`Plain error' is error which, when examined in the context of the entire case, is so obvious and substantial that failure to notice and correct it would affect the fairness, integrity or public reputation of the judicial proceedings." United States v. Lopez, 923 F.2d 47, 50 (5th Cir.), cert. denied, 111 S.Ct. 2032 (1991). It is a mistake so fundamental that it constitutes a miscarriage of justice. Id.

We find no plain error. Gonzalez has not asserted prejudice, nor has he alleged that he would not have pleaded guilty had he been correctly advised. See United States v. Armstrong, 951 F.2d 626, 629 (5th Cir. 1992). Nor does Gonzalez's two-sentence argument request that his plea be vacated as unknowing. He seeks only deletion of the supervised release term.

AFFIRMED.