

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-10407  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MAGDELINA GARCIA, a/k/a  
Magdelina Meyer,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:94-CR-101-A(3)  
- - - - -

October 31, 1996

Before POLITZ, Chief Judge, and JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:\*

Magdelina Garcia argues that the district court lacked authority to order her deported under 18 U.S.C. § 3583(d). In relevant part, § 3583(d) provides that "if an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration officer for such deportation." 18 U.S.C.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

§ 3583(d). Although the district court could have provided that deportation be a condition of supervised release, the district court lacked authority under § 3583(d) to order the defendant deported without a deportation hearing. See United States v. Quaye, 57 F.3d 447, 449-51 (5th Cir. 1995). The 1994 amendment to 8 U.S.C. § 1252a(d), which authorizes district courts to order aliens deported who have committed aggravated felonies is inapplicable because judicial deportation was not requested by the Attorney General. See § 1252a(d).

Accordingly, we MODIFY the judgment as follows and AFFIRM as modified:

As a condition of supervised release, upon completion of her term of imprisonment the defendant is to be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. §§ 1101 et seq. As a further condition of supervised release, if ordered deported, defendant shall remain outside the United States.

MODIFIED AND AFFIRMED.