

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2013

Lyle W. Cayce
Clerk

No. 12-41008

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ENRIQUE ORDUNA-PERALES,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:07-CR-893-1

Before REAVLEY, JOLLY, and DAVIS, Circuit Judges.

PER CURIAM:*

Enrique Orduna-Perales appeals the sentence imposed following the revocation of his supervised release. Specifically, he challenges the district court's reimposition of a \$100 special assessment.

We review revocation sentences under 18 U.S.C. § 3742's "plainly unreasonable" standard. *United States v. Miller*, 634 F.3d 841, 843 (5th Cir. 2011). A review of the transcript from the revocation hearing reflects that the district court's reimposition of the special assessment is contrary to the oral

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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pronouncement and evidence presented at the hearing. Therefore, as the Government concedes, a conflict exists between the oral and written judgments. In such a case, the oral pronouncement controls. *See United States v. Martinez*, 250 F.3d 941, 942 (5th Cir. 2001). Accordingly, the district court's judgment is modified to strike the reimposition of the \$100 special assessment so that the written judgment is in conformance with the oral pronouncement, and we affirm the judgment as so modified. *See* 28 U.S.C. § 2106; *see also United States v. Hermoso*, 484 F. App'x 970, 972–73 (5th Cir. 2012).

AFFIRMED AS MODIFIED.