

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

United States Court of Appeals
Fifth Circuit

FILED

October 7, 2011

Lyle W. Cayce
Clerk

No. 10-40562
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAUL GARCIA-PINON,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:09-CR-2468-1

Before BENAVIDES, STEWART and CLEMENT, Circuit Judges.

PER CURIAM:*

Raul Garcia-Pinon (Garcia) pleaded guilty to attempted re-entry of a deported alien. He has appealed his sentence.

The written judgment contains, as a special condition of supervised release, a general prohibition against the use of an alias name. As the Government concedes, this condition conflicts with the district court's oral pronouncement of the sentence because it broadens the restrictions or

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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requirements of Garcia's supervised release. *See United States v. Mireles*, 471 F.3d 551, 558 (5th Cir. 2006).

In this circumstance, the written judgment must be conformed to the oral pronouncement by the district court. *See United States v. Bigelow*, 462 F.3d 378, 383-84 (5th Cir. 2006). On remand, the district court will have discretion to impose a special condition of supervised release prohibiting Garcia from identifying himself falsely in a manner that would constitute a law violation, as such a condition would clarify the standard condition requiring Garcia to refrain from criminal conduct and so would not be in conflict with the oral pronouncement. *See id.*; *United States v. Torres-Aguilar*, 352 F.3d 934, 938 (5th Cir. 2003).

The judgment is VACATED IN PART, and the case is REMANDED for further proceedings consistent with this opinion.