

United States Court of Appeals
for the Fifth Circuit

No. 23-20027
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
November 3, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellant,

versus

RAFAEL ROMERO SEGURA,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:21-CR-15-1

Before SMITH, HO, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

The government appeals the imposition of concurrent sentences on Rafael Segura's underlying conviction of discharging a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(iii), and another federal sentence imposed in a different case for illegal reentry. The government asserts that consecutive sentences are statutorily mandated

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

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under 18 U.S.C. § 924(c)(1)(D)(iii).

The government preserved this argument in the district court; thus, we review for abuse of discretion. *See United States v. Reyes-Lugo*, 238 F.3d 305, 307–08 (5th Cir. 2001). “A district court abuses its discretion if it bases its decision on an error of law or a clearly erroneous assessment of the evidence.” *United States v. Castillo*, 430 F.3d 230, 238 (5th Cir. 2005) (internal quotation marks and citation omitted). We review questions of statutory construction or interpretation *de novo*. *United States v. Gomez*, 960 F.3d 173, 176–77 (5th Cir. 2020).

The firearms conviction was subject to a ten-year statutory minimum. *See* § 924(c)(1)(A)(iii). Under the plain language of § 924(c)(1)(D)(ii), that sentence is to be consecutive to any other term of imprisonment, federal or state, and the district court lacked discretion, under 18 U.S.C. § 3584, to impose concurrent sentences. *See United States v. Gonzales*, 520 U.S. 1, 6, 11 (1997); *see also Lora v. United States*, 599 U.S. 453, 455 (2023); *United States v. Krumnow*, 476 F.3d 294, 298 (5th Cir. 2007). “Given the straightforward statutory command” of a consecutive sentence, *Gonzales*, 520 U.S. at 6, the court erred by ordering that Segura’s § 924(c) sentence run concurrently with the illegal-reentry sentence, *see id.* at 6, 11; *see also Krumnow*, 476 F.3d at 298.

For the foregoing reasons, Segura’s conviction is AFFIRMED, his sentence is VACATED, and this matter is REMANDED for resentencing.