

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

November 7, 2023

Lyle W. Cayce  
Clerk

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No. 23-20067  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

BRENDA YADIRA PEREZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:21-CR-532-1

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Before ELROD, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:\*

Brenda Yadira Perez appeals the sentence imposed following her guilty-plea conviction, arguing that several conditions of supervised release in the written judgment conflict with the oral pronouncement at sentencing.

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

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We agree that a conflict exists, as does the Government. Accordingly, we vacate the sentence in part and remand.<sup>1</sup>

To impose conditions of supervised release not mandated by 18 U.S.C. § 3583(d), a district court must pronounce them at sentencing. *United States v. Diggles*, 957 F.3d 551, 559 (5th Cir. 2020) (en banc). “If the written judgment broadens the restrictions or requirements of supervised release from an oral pronouncement, a conflict exists.” *United States v. Mireles*, 471 F.3d 551, 558 (5th Cir. 2006). In such cases the judgment must be amended to conform to the oral sentence. *Id.*

The written judgment in this case includes 15 “standard conditions” that are not required by § 3583(d) and were not pronounced at sentencing. Perez challenges standard conditions 2 through 15. Because she did not have an opportunity to object in the district court, our review is for abuse of discretion. *See United States v. Martinez*, 987 F.3d 432, 434–35 (5th Cir. 2021).

As the Government concedes, standard conditions 2 through 9 and 11 through 15 conflict with the oral pronouncement of sentence and must therefore be stricken. *See Mireles*, 471 F.3d at 558. Standard condition 10—which prohibits Perez from owning or possessing a firearm, ammunition, destructive device, or dangerous weapon—is partially consistent with the mandatory condition that she must not commit other crimes. *See* 18 U.S.C. §§ 922(g)(1), 921(a)(3); *see also* § 3583(d). However, because this prohibition creates a conflict to the extent it encompasses lawful conduct, it must be modified. *See Mireles*, 471 F.3d at 558.

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<sup>1</sup> Judge Oldham adheres to his view that our precedents are deeply flawed and should be reconsidered. *See United States v. Griffin*, No. 21-50294, 2022 WL 17175592, at \*7–8 (5th Cir. Nov. 23, 2022) (Oldham, J., dissenting).

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For these reasons, the judgment is VACATED IN PART, and we REMAND to the district court for the limited purpose of conforming the judgment to the oral pronouncement of sentence.