

United States Court of Appeals for the Fifth Circuit

No. 23-20412
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JEARLEN WAYNE WILLIAMS,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CR-238-3

Before WIENER, STEWART, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Defendant-Appellant Jearlen Wayne Williams appeals following his guilty plea conviction and sentencing for one count of possession of forty grams or more of fentanyl with intent to distribute. At Williams's sentencing hearing, the district court recommended that the Bureau of Prisons assess Williams for placement in its Residential Drug Abuse Program (RDAP).

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

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However, that recommendation was omitted from the district court's written judgment. On appeal, the parties agree that this omission constitutes a clerical error under Federal Rule of Criminal Procedure 36.

A district court "may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission." FED. R. CRIM. P. 36. A clerical error occurs "when the court intended one thing but by merely clerical mistake or oversight did another." *United States v. Buendia-Rangel*, 553 F.3d 378, 379 (5th Cir. 2008) (per curiam) (internal quotation marks and citation omitted). Here, the district court unambiguously granted Williams's unopposed request to recommend RDAP placement. The recommendation's omission from the written judgment thus constitutes a clerical error. *See id.*

The district court's judgment is AFFIRMED, but we REMAND the case for the sole purpose of that court's correction of the clerical error in the written judgment, to reflect its RDAP recommendation.