

United States Court of Appeals for the Fifth Circuit

No. 23-30718
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 10, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ORONDE GABRIEL,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:22-CR-17-1

Before GRAVES, WILLETT, and WILSON, *Circuit Judges*.

PER CURIAM:*

Oronde Gabriel pleaded guilty to possession of a firearm by a felon. He was sentenced below the advisory Guidelines range to 30 months' imprisonment and three years of supervised release.

On appeal, Gabriel argues that the district court's written judgment conflicts with its oral pronouncement at the sentencing hearing with respect

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

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to three conditions of supervised release. Because the alleged inconsistencies between the oral pronouncement and the written judgment first appeared in the written judgment, Gabriel did not have the opportunity to object to them in the district court. Accordingly, we review the conditions for abuse of discretion. *See United States v. Baez-Adriano*, 74 F.4th 292, 298 (5th Cir. 2023).

Here, as Gabriel and the Government agree, the written judgment imposes sentencing conditions more burdensome than the oral pronouncement, creating a conflict. *See United States v. Prado*, 53 F.4th 316, 318 (5th Cir. 2022). Specifically, the written conditions requiring Gabriel to “support his . . . dependents and meet other family responsibilities”¹ and prohibiting Gabriel from “frequent[ing] places where controlled substances are illegally sold, used, distributed, or administered”² were not orally pronounced at sentencing. Additionally, the district court did not pronounce a portion of another condition, which orders Gabriel to “refrain from excessive use of alcohol.”³ Gabriel acquiesces in the Government’s argument that the remainder of this latter condition creates no conflict.

Accordingly, the district court’s judgment is AFFIRMED in part, VACATED in part, and REMANDED to the district court for the limited purpose of amending the judgment to conform with the oral pronouncement as outlined above.

¹ This language is condition number four of the written conditions of supervision.

² This language is condition number eight of the written conditions of supervision.

³ This language is part of condition number seven of the written conditions of supervision.