

United States Court of Appeals for the Fifth Circuit

No. 23-50065
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 10, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ADRIAN DE LA TORRE,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:22-CR-640-1

Before STEWART, DENNIS, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Adrian De La Torre pleaded guilty to aiding and abetting the harboring of aliens and conspiracy to harbor aliens, in violation of 8 U.S.C. § 1324. The district court sentenced him to 33 months of imprisonment and three years of supervised release.

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

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For the first time on appeal, De La Torre challenges the condition of his supervised release which provides that, if the probation officer determines that De La Torre presents a risk to another person, the probation officer may require De La Torre to notify the person of that risk and may contact the person to confirm that notification occurred. De La Torre contends that this condition constitutes an improper delegation of judicial authority to the probation officer. He concedes that his argument is foreclosed by our recent decision in *United States v. Mejia-Banegas*, 32 F.4th 450 (5th Cir. 2022), but he raises the issue to preserve it for further review. The Government has filed an unopposed motion for summary affirmance, asserting that De La Torre's claim is foreclosed by *Mejia-Banegas*. In the alternative, the Government requests an extension of time to file its brief.

We held in *Mejia-Banegas* that such a risk-notification condition did not impermissibly delegate judicial authority, plainly or otherwise. 32 F.4th at 451-52. The parties are thus correct that the issue is foreclosed, and the Government is correct that summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The Government's motion for summary affirmance is GRANTED, the district court's judgment is AFFIRMED, and the Government's alternative motion for an extension of time to file a brief is DENIED.