United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
September 9, 2025
Lyle W. Cayce
Clerk

No. 24-50509

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

PIERRER ANDRE DUBUISSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:22-CR-1225-1

Before JONES, STEWART, and RAMIREZ, *Circuit Judges*.

PER CURIAM:[*]

Pierrer Andre Dubuisson challenges the district court's imposition of two special mental health conditions of supervised release as unsupported by the record. We VACATE the special conditions for mental health treatment and medication and REMAND for further proceedings consistent with his opinion.

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

I

After being stopped while driving a vehicle carrying seven passengers who were illegally present in the United States, Dubuisson was charged with one count of knowingly transporting an illegal alien within the United States for the purpose of commercial advantage and private financial gain. A jury found him guilty of knowingly transporting an alien within the United States, but it did not find that he did so for the purpose of commercial advantage or financial gain.

The presentence report ("PSR") prepared by the United States Probation Office noted that during Dubuisson's post-arrest statement, he said law enforcement agents were out to get him because he was "black and Haitian," that agents used their horses to step on people, and that he thought he was picking up Ukrainian citizens he had seen near the side of the road. And while in the holding cell, Dubuisson was yelling that the agents wanted him to kill himself. The PSR described Dubuisson as "uncooperative," "aggravated," "defensive," and "agitated" during his presentence interviews. It also recounted Dubuisson's statements during the interviews that the probation office was out to get him because he was "black and Haitian," that it fabricated things, that the court was involved and corrupt, and that his defense attorney worked for the government and did not attempt to defend him.

According to the PSR, Dubuisson "reported no mental health issues" and there was "no information obtained indicating the defendant has ever experienced or is currently experiencing any mental or emotional problems." It reiterated, however, that Dubuisson "did not communicate effectively and was not cooperative" during the presentence interview, and that he stated his belief that information about his mental health was "irrelevant."

The PSR calculated a total offense level of 25 and a criminal history category of I, which resulted in a guideline sentencing range of 57 to 71 months. It also recommended imposition of two special mental health conditions of supervised release:

> The defendant shall participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). The defendant shall pay the costs of such treatment based on the ability to pay.
>
> . . .
>
> The defendant shall take all mental health medications that are prescribed by the treating physician, as prescribed.

Dubuisson did not file any objections to the PSR.

During a bench conference at the start of the sentencing hearing, Dubuisson's attorney stated that Dubuisson was "somewhat dissatisfied with [him], so he's somewhat recalcitrant." The district court noted that Dubuisson "has been recalcitrant since he came into this court."

During the hearing, the district court verified that Dubuisson had reviewed the PSR with his counsel, and that he had no objections to the legal or factual conclusions in it. The court stated that because the jury found that Dubuisson did not commit the offense of conviction for any type of financial gain, the statutory maximum was five years. It corrected the PSR to reflect the correct guideline range of 57 to 60 months and then adopted it, without objection. During allocution, Dubuisson told the district judge that there was no evidence against him, that the jury had convicted him on lies, and that there was no one in the vehicle with him. The court noted that Dubuisson had not been cooperative with the probation office and that he had been

"fighting everything from day one to the point of even claiming the Court is corrupt," and that he had failed to provide necessary information.

The district court sentenced Dubuisson to 57 months of imprisonment and three years of supervised release. It orally pronounced the two special mental health conditions recommended in the PSR, but it did not state any factual findings in support of the special conditions for mental health treatment and medication. Dubuisson did not object to the imposition of those special conditions, and they were included in the written judgment. Dubuisson timely appealed.

II

Preserved challenges to the imposition of conditions of supervised release are reviewed for abuse of discretion. *United States v. Gordon*, 838 F.3d 597, 604 (5th Cir. 2016). Plain error review applies when an error is not properly preserved. *Id.* Under plain error review, Dubuisson must show a legal error that is "clear or obvious" and affects his "substantial rights" by affecting the outcome of the district court proceedings. *Puckett v. United States*, 556 U.S. 129, 135 (2009). Courts of appeals have discretion to remedy the error "only if the error seriously affects the fairness, integrity or public reputation of judicial proceedings." *Id.* (citation modified).

III

Dubuisson argues that the district court erred in imposing mental health treatment and medication conditions of supervised release because the "record contains no evidence that [he] needed mental-health treatment."

Although district courts have wide discretion to impose special conditions of supervised release, this discretion is limited by 18 U.S.C. § 3583(d). *United States v. Vigil*, 989 F.3d 406, 409 (5th Cir. 2021) (citing *United States v. Paul*, 274 F.3d 155, 164 (5th Cir. 2001)). Under § 3583(d),

conditions must be "reasonably related" to the following sentencing factors: (1) the nature and circumstances of the offense and the history and characteristics of the defendant, (2) the need to afford adequate deterrence to criminal conduct, (3) the need to protect the public from further crimes of the defendant, and (4) the need to provide the defendant with needed training, medical care, or other correctional treatment in the most effective manner. *Id.* (citing *Paul*, 274 F.3d at 164–65). The conditions may not impose any "greater deprivation of liberty than is reasonably necessary" to accomplish these statutory goals. *Paul*, 274 F.3d at 165; *see* §§ 3583(d)(2), 3553(a)(2)(D). The conditions must also be consistent with relevant policy statements issued by the Sentencing Commission. *Vigil*, 989 F.3d at 409 (citing § 3583(d)(3)); *United States v. Caravayo*, 809 F.3d 269, 273 n.2 (5th Cir. 2015).

Appellate courts "have consistently required district courts to set forth factual findings to justify special [supervised release] conditions." *United States v. Salazar*, 743 F.3d 445, 451 (5th Cir. 2014) (citation modified). This court has held that a district court commits clear and obvious error by failing to explain its reasons for imposing a special condition. *United States v. Alvarez*, 880 F.3d 236, 240–41 (5th Cir. 2018). In the absence of factual findings, however, appellate courts "may nevertheless affirm a special condition where the district court's reasoning can be inferred after an examination of the record." *Caravayo*, 809 F.3d at 275 (citation modified).

A

In response, the Government argues that the challenged mental health treatment condition is supported by Dubuisson's "episodes of unhinged behavior, agitation toward the probation officer and the district court, as well as multiple fantasies and irrational statements" and his statements at the sentencing hearing. We disagree.

As noted, the district court did not provide factual findings justifying the special conditions for mental health treatment. The PSR, which the district court adopted, indicates that Dubuisson "reported no mental health issues" and that there was "no information obtained indicating that the defendant has ever experienced or is currently experiencing any mental or emotional problems." The PSR recounted Dubuisson's post-arrest conduct with law enforcement agents, but nothing in Dubuisson's criminal history nor the offense of conviction showed that he had mental health issues.

The sentencing hearing also offers no support for imposing the mental health treatment special condition. During sentencing, the district court noted that Dubuisson had been "recalcitrant," and uncooperative with the probation officers, "fighting everything from day one to the point of even claiming the Court is corrupt." It did not discuss the implications of this behavior as to potential mental health issues or mental and emotional problems. Instead, because it adopted the PSR, the district court's reasoning for imposing the mental health treatment special condition remains unclear. *See Alvarez*, 880 F.3d at 240.

Based on this record, we cannot find that the special condition requiring mental health treatment was "reasonably related" to his offense or his history and characteristics, nor to deterring future criminal conduct, protecting the public, or providing necessary treatment. § 3583(d)(1). Dubuisson's "recalcitrance" with virtually everyone he encountered is clear, but the record does not reflect that the district court had reason to believe that he was "in need of psychological or psychiatric treatment." U.S.S.G. § 5D1.3(d)(5). As a result, the imposition of the special conditions requiring mental health treatment was inconsistent with § 5D1.3(d)(5), so it violates the requirement in § 3583(d)(3) that conditions be consistent with the "pertinent policy statements" issued by the Sentencing Commission. *See* § 3583(d)(3).

Because the district court's imposition of the condition was not supported by the record, Dubuisson has demonstrated error, and the error is plain. *See Alvarez*, 880 F.3d at 240–41 (concluding that imposing a special condition requiring the defendant to participate in a mental health treatment program was a plain error where no evidence in the record suggested that the defendant needed such treatment). The error also impacted Dubuisson's substantial rights, satisfying the third prong of plain error review. But for the error, Dubuisson "would not have been subjected to the unwarranted special condition because no record evidence reveals any justification for the condition." *United States v. Prieto*, 801 F.3d 547, 553 (5th Cir. 2015). As Dubuisson asserts, his required participation in a mental health program "may require a significant commitment of time" and implicate "significant autonomy . . . concerns." *Alvarez*, 880 F.3d at 241–42. Moreover, the condition results in the "unwarranted perception" that Dubuisson has mental illness. *Id.* at 241 (citing *Gordon*, 838 F.3d at 603–05). This court has previously found that this type of error merits the exercise of its discretion to remedy it. *See id.* at 241–42; *Gordon*, 838 F.3d at 605. Accordingly, we vacate the special condition imposed by the district court requiring Dubuisson to participate in mental health treatment.

B

The Government contends that Dubuisson's challenge to the special condition that he must take any mental health medications prescribed to him is not ripe for review. We disagree.

"'[R]ipeness is a component of subject matter jurisdiction, because a court has no power to decide disputes that are not yet justiciable.'" *United States v. Magana*, 837 F.3d 457, 459 (5th Cir. 2016) (quoting *Lopez v. City of Houston*, 617 F.3d 336, 341 (5th Cir. 2010)). Because it is a jurisdictional issue,

we review the ripeness of Dubuisson's claim de novo. *Id.* (citing *United States v. Isgar*, 739 F.3d 829, 838 (5th Cir. 2014)).

When assessing challenges to special conditions of supervised release by a defendant who, like Dubuisson, has not yet begun a term of supervised release, we focus on whether the alleged future injury "is sufficiently likely to happen to justify judicial intervention." *Id.* (citation modified). A challenge to conditions that "are patently mandatory—i.e., their imposition is 'not contingent on future events'— . . . is ripe for review on appeal." *Id.* (citation modified). If it is "a matter of conjecture whether the requirements of the condition will take effect," however, a challenge is not ripe. *Id.* (citation modified).

In *United States v. Hall*, No. 23-50082, 2023 WL 8184818, at *1 (5th Cir. Nov. 27, 2023) (unpublished), on which the Government relies, a defendant who had not been released on supervision challenged the imposition of a special condition requiring him to "take . . . all medications that are prescribed by the treating physician." *Id.* The court concluded that the defendant's challenge to the medication condition was not ripe for review because it was "'a matter of conjecture' whether he [would] ever be subjected to prescribed medication." *Id.*

Dubuisson responds that *Hall* is distinguishable because, in contrast to this case, Hall did not challenge the separate special conditions that required him to submit to mental health treatment or to see a physician. Hall challenged only his medication condition. Dubuisson argues that the mandatory mental health treatment condition imposed on him is unsupported by the record, and the medication condition is "inextricably linked" with that unsupported treatment condition, so his challenge to the medication condition is also ripe for review on appeal. His argument has merit.

Although a defendant can see a physician or receive mental health treatment without being prescribed medication, a defendant typically cannot be prescribed medication without seeing a physician or receiving mental health treatment. Some courts have included the requirements for treatment and for medication within the same special condition. For example, in *United States v. Bree*, 927 F.3d 856, 859 (5th Cir. 2019), the special condition that required the defendant's participation in mental health treatment included the requirement that the defendant "purchase and take any medications prescribed by a physician while being treated." The court agreed with the defendant that the mental health special condition was unsupported by the record and that its imposition constituted reversible plain error, *id.* at 858, and it struck the condition, *id.* at 862.

Likewise, in *United States v. Ellis*, 720 F.3d 220, 227 (5th Cir. 2013), the defendant challenged, on direct appeal of his sentence, two special conditions of supervised release that required him to participate in mental health and sex offender treatment programs. He argued that the treatment conditions were excessive because they included "the possibility he might be required to submit to psychotropic medication and psycho-physiological testing." *Id.* at 227. The *Ellis* court found that the defendant's challenge to the possibility of being subjected to medication or testing as part of his treatment programs was not ripe for review because he might never be subjected to medication or testing. *Id.*

Under the facts of this case, we find that where the imposition of a mandatory mental health treatment special condition is unsupported by the record, Dubuisson's challenge to the related but separate mental health medication condition is ripe for review. The medication special condition is vacated for the same reasons as the mental health treatment special condition.

IV

Accordingly, we VACATE the special conditions for mental health treatment and medication and REMAND for further proceedings consistent with his opinion.[1]

[1] Judge Jones dissents and would apply a clear error standard of review to the district court's imposition of mental health conditions of supervised release.