

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 1, 2026

Lyle W. Cayce
Clerk

No. 24-20462

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JONATHAN M. TAMPICO,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:98-CR-485-1

Before CLEMENT, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

KURT D. ENGELHARDT, *Circuit Judge*:

In September 1999, Defendant-Appellant Jonathan M. Tampico was found guilty of possession, receipt, and distribution of child pornography in violation of 18 U.S.C. §§ 2252(a)(4)(B) and 2252A(a)(2). In February 2000, he was sentenced to a total of 360 months of imprisonment, a total of five years of supervised release, and a \$5,000 fine. Having commenced his term of supervised release on March 12, 2024, Tampico appeals an October 2024 order modifying the conditions of that release to include home detention for six months and beyond that until he successfully completes the court-ordered sex offender treatment program; finding \$1,992.86 in accrued interest on the

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fine to be due; and ordering him to make monthly payments of \$200. We AFFIRM.

I.

Substantive reasonableness challenges to conditions of supervised release, if preserved, are reviewed for abuse of discretion. *United States v. Caillier*, 80 F.4th 564, 569 (5th Cir. 2023) (citing *United States v. Ellis*, 720 F.3d 220, 224 (5th Cir. 2013)). “A district court abuses its discretion if it bases its decision on an error of law or a clearly erroneous assessment of the evidence.” *United States v. Castillo*, 430 F.3d 230, 238 (5th Cir. 2005) (citations and quotation marks omitted). “Unpreserved challenges to special conditions are reviewed for plain error.” *Caillier*, 80 F.4th at 569 (citing *United States v. Weatherton*, 567 F.3d 149, 152 (5th Cir. 2009)). However, regardless of preservation, “[w]e review *de novo* whether [the defendant] received a sentence in excess of the statutory maximum.” *United States v. Shabazz*, 633 F.3d 342, 344 (5th Cir. 2011); *United States v. Vera*, 542 F.3d 457, 459 (5th Cir. 2008) (“[B]ecause a sentence which exceeds the statutory maximum is an illegal sentence and therefore constitutes plain error, our review . . . will be *de novo*.” (quoting *United States v. Sias*, 227 F.3d 244, 246 (5th Cir. 2000))).

II.

Tampico challenges the legal validity of the district court’s October 2024 order continuing the home detention first ordered, as an additional condition of supervised release, on March 15, 2024.¹ At the conclusion of the

¹ On March 7, 2024, the assigned probation officer, in anticipation of Tampico’s release from federal custody (a halfway house) on March 12, 2024, requested the addition of several conditions of supervise release. At the conclusion of the March 15, 2024 hearing, the district court ordered location monitoring via GPS and six months of home detention.

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October 7, 2024 hearing, the court ordered that Tampico's location monitoring—GPS monitoring and home detention—continue for a period of six months and, if by then he had not successfully completed the court-ordered sex offender treatment program, until he successfully completes the program.² Regarding that directive, the October 9, 2024 written order states, in pertinent part:

You will be monitored by the form of location monitoring technology indicated below for a period of **SIX (6) MONTHS** and, if you by then have not successfully completed the sex offender treatment program, the location monitoring shall continue until such time as you shall have successfully completed the sex offender treatment program. You must follow the rules and regulations of the location monitoring program. You must pay the costs of the program, if financially able. The Court may further extend the offender's time in the location monitoring program based on progress in treatment and community safety.

☒ **GPS Monitoring (including hybrid GPS)**

This form of location monitoring technology will be used to monitor the following restriction on your movement in the community.

☒ **Home Detention:** You are restricted to your residence at all times except for employment, education, religious services, medical, substance abuse, or mental health treatment, attorney

Although Tampico objected to the location monitoring, including the home detention, he did not appeal the March 2024 orders.

² See October 9, 2024 Order Modifying Conditions of Supervised Release; October 7, 2024 Hearing Transcript.

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visits, court appearances, court-ordered obligations, or other activities as preapproved by the [probation] officer.³

Because he was sentenced (in February 2000) to the statutory maximum terms of imprisonment for his child pornography offenses,⁴ Tampico argues that the district court’s October 2024 order—extending the home detention requirement—violated 18 U.S.C. § 3583(e)(4), providing that “an order under [that] paragraph may be imposed only as an alternative to incarceration,” and thus is an illegal sentence.

A.

Section 3583 of Title 18 of the United States Code authorizes terms of supervised release (as a part of the sentence for an individual who has been convicted of a federal criminal offense offense) that follow the applicable term of imprisonment.⁵ “Supervised release is ‘a form of postconfinement

³ Tampico has not appealed the GPS monitoring component of the location monitoring program.

⁴ The maximum sentence of imprisonment authorized by 18 U.S.C. § 2252A(a)(2) was 30 years. The maximum sentence of imprisonment authorized by 18 U.S.C. § 2252(a)(4)(A) was five years. Tampico received sentences of 360 months for each of the two § 2252A(a)(2) offenses, and a sentence of 60 months for the § 2252(a)(4)(A), with the terms to run concurrently.

⁵ See 18 U.S.C. § 3551(a)–(b) (authorizing sentences for individuals “found guilty of an offense described in a Federal statute”); 18 U.S.C. § 3559(a)–(b) (establishing sentencing classifications of federal criminal offenses based upon the maximum term of imprisonment “authorized by the law describing the offense”); 18 U.S.C. § 3583(a)–(b) (setting forth authorized terms of supervised release); see also *Esteras v. United States*, 606 U.S. 185, 192 (2025) (“A judge who imposes a term of imprisonment may—and sometimes must—impose a postimprisonment term of supervised release.” (citing § 3583(a)); *Mont v. United States*, 587 U.S. 514, 521 (2019) (“Both now and at the time Congress created supervised release, see § 212(a)(2), 98 Stat. 1999–2000, the term ‘imprison’ has meant ‘[t]o put in a prison,’ ‘to incarcerate,’ ‘[t]o confine a person, or restrain his liberty, in any way.’” (citing Black’s Law Dictionary 681 (5th ed. 1979); 5 Oxford English Dictionary 113 (1933); Black’s Law Dictionary 875 (10th ed. 2014)); U.S. SENT’G GUIDELINES MANUAL § 4A1.2(b)(1) (U.S. Sent’g Comm’n 2025) (hereinafter “U.S.S.G.”) (“[T]he

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monitoring’ that permits a defendant a kind of conditional liberty” in order “to facilitate a ‘transition to community life.’” *Mont v. United States*, 587 U.S. 514, 523 (2019) (first quoting *Johnson v. United States*, 529 U.S. 694, 697 (2000); and then quoting *United States v. Johnson*, 529 U.S. 53, 59 (2000)).

Regarding conditions of supervised release, § 3583(d) authorizes the sentencing court to order “any condition set forth as a discretionary condition of probation in § 3563(b) and any other condition it considers appropriate” so long as the condition “is reasonably related to [at least one of the four] factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D).” *See* 18 U.S.C. § 3583(d)(1); *Caillier*, 80 F.4th at 569 (citing *Weatherton*, 567 F.3d at 153 & n.1 (recognizing that a condition of supervised release must be reasonably related to one, but not all, of the § 3553(a) factors)).⁶ Relevant here, the discretionary conditions of probation authorized by § 3563(b)—incorporated by and into § 3583(d)—include a requirement that the defendant:

remain at his place of residence during nonworking hours . . .
except that a condition under this paragraph may be imposed
only as an alternative to incarceration[.]

term ‘sentence of imprisonment’ means a sentence of incarceration and refers to the maximum sentence imposed.”).

⁶ The pertinent § 3553(a) factors are: [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 educational or vocational training, medical care, or other correctional treatment in the most effective manner.” *See* 18 U.S.C. § 3583(d)(1) (referencing § 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D)).

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See 18 U.S.C. § 3563(b)(19).⁷

Section 3583(d) additionally requires that discretionary conditions of supervised release involve “no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D).” *See* 18 U.S.C. § 3583(d)(2); *see also United States v. Trevino*, 125 F.4th 198, 203 (5th Cir. 2024) (citing § 3583(d)(2)). Conditions also must be “consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a).” § 3583(d)(3). Otherwise, district courts have “wide discretion in imposing terms and conditions of supervised release.” *Caillier*, 80 F.4th at 569 (quoting *United States v. Winding*, 817 F.3d 910, 914 (5th Cir. 2016)).

Post-sentencing, § 3583(e)(2) authorizes the court, after considering the factors set forth in section 3553(a)(1), (a)(2)(B)–(D), and (a)(4)–(7), to “modify, reduce, or enlarge” the conditions of supervised release “at any time prior to the expiration or termination of the term of supervised release.” 18 U.S.C. § 3583(e)(2). Section 3583(e)(2) does not require a “change in circumstance” or “compelling cause” to modify a condition of supervised release. *Caillier*, 80 F.4th at 568. And conditions may be modified prior to the commencement of the term of supervised release. *Trevino*, 125 F.4th at 201 (“The statute’s plain text does not require the district court to wait until the supervised release term has begun.”). But “[d]istrict courts have jurisdiction to modify supervised release conditions *only* for statutorily

⁷ The United States Sentencing Guidelines address home detention, as well as intermittent confinement, as a condition of probation or supervised release. *See* U.S.S.G. §§ 5B1.1(a); 5C1.1; 5B1.3(e)(2); 5F1.2 & cmt. n. 1; 5F1.8 & cmt.n.1.

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enumerated reasons, such as to ensure deterrence or protect the public.” *Caillier*, 80 F.4th at 567 (emphasis added).⁸

Finally, utilizing almost identical language as that in § 3563(b)(19), § 3583(e) also authorizes the court to:

order the defendant to remain at his place of residence during nonworking hours . . . , except that an order under this paragraph may be imposed only as an alternative to incarceration.

See 18 U.S.C. § 3583(e)(4); *United States v. Ferguson*, 369 F.3d 847, 850 (5th Cir. 2004) (per curiam) (explaining that home detention may be ordered, pursuant to § 3583(e)(4), as an alternative to the revocation term of imprisonment that § 3583(e)(3) authorizes for a violation of a condition of supervised release); *United States v. Hall*, 64 F.4th 1200, 1203 (11th Cir. 2023) (“Section 3583(e) separately authorizes courts to impose a term of home confinement as punishment when a defendant violates the conditions of his supervised release.”); *id.* at 1206 (characterizing the term of “home confinement” authorized by § 3583(e)(4) as a “stand-alone punishment”).⁹

⁸ The United States Sentencing Guidelines also address the modification of conditions of supervised release. *See* U.S.S.G. § 5D1.4 & cmt. n.1 (addressing modification, reduction, or enlargement of conditions of supervised release based upon an individualized assessment of the appropriateness of existing conditions). The procedures governing modifications of the conditions of supervised release or probation are set forth in Rule 32.1 of the Federal Rules of Criminal Procedure. *See* FED. R. CRIM. P. 32.1.

⁹ Regarding revocation of supervised release and imprisonment, § 3583(e)(3) provides:

The court may . . . revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release,

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B.

On appeal, Tampico does *not* argue that the home detention condition imposed by the district court is not “reasonably related to one of the specified § 3553(a) factors,” or that it constitutes a “greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D).” *See* 18 U.S.C. § 3583(a).¹⁰ Instead, because he previously was sentenced to the statutory maximum sentences of

finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve on any such revocation more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case;

See 18 U.S.C. § 3583(e)(3).

In April 2003, the PROTECT Act amended 18 U.S.C. § 3583(e)(3) by inserting “on any such revocation” after “required to serve,” such that the felony class limits on revocation imprisonment subsequently operate as “per-revocation,” rather than aggregate, limits. *See United States v. Hampton*, 633 F.3d 334, 341 (5th Cir. 2011) (citing PL 108–21, April 30, 2003, 117 Stat 650); *Shabazz*, 633 F.3d at 345 (concluding “‘any such revocation’ . . . limits only the amount of revocation imprisonment the revoking court may impose each time it revokes a defendant’s supervised release”); *see also* U.S. SENT’G COMM’N, FEDERAL OFFENDERS SENTENCED TO SUPERVISED RELEASE 43 (2010), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2010/20100722_Supervised_Release.pdf (“The maximum term of imprisonment available to impose . . . starts anew with each revocation” and “[c]ourts no longer have to aggregate time served on prior revocations and subtract it from the maximum available prison term.”).

If revocation and imprisonment are ordered, § 3583(h) authorizes a successive term of supervised release. *See* 18 U.S.C. § 3583(h) (“The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.”).

¹⁰ Accordingly, we do not review the district court’s assessment of these criteria.

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imprisonment (30 years/360 months) for his child pornography offenses,¹¹ Tampico contends that the district court’s addition of home detention (to the conditions of his supervised release) violated statutory directives that home detention as a “condition” under § 3563(b)(19), and an “order” under § 3583(e)(4), “may be imposed only as an alternative to incarceration,” yielding an illegal sentence.¹²

In support of his argument, Tampico cites our decision in *Ferguson* and the Eleventh Circuit’s decision in *Hall*. In *Ferguson*, the district court, having revoked Ferguson’s term of supervised release, sentenced him to 23 months of incarceration followed by a term of 13 months of supervised release, and ordered that the first six months of supervised release be served in home detention. 369 F.3d at 848–49. On appeal, Ferguson argued that the combination of the 23-month term of imprisonment, plus the six-month term of home detention, exceeded the applicable statutory maximum term of 24 months of imprisonment. *Id.* at 850 (citing § 3583(e)(3)).

Emphasizing the language and interplay of § 3563 and § 3583—particularly the language in § 3563(b)(19) and § 3583(e)(4) authorizing home

¹¹ Tampico’s March 2024 release date presumably reflects his accumulation of “good-time” credit toward his sentence. *See* 18 U.S.C. § 3624 (addressing credit toward service of sentence for satisfactory behavior).

¹² Tampico concedes (in his reply brief) that, if his supervised release were revoked, he could be ordered to serve an additional term of imprisonment, pursuant to 18 U.S.C. § 3583(e)(3), notwithstanding the 360 months’ concurrent sentences imposed in February 2000, pursuant to 18 U.S.C. § 2252A(a)(2), for two of his three pornography offenses. *See Hampton*, 633 F.3d 334, 341 (5th Cir. 2011) (“[I]t has always been the case that the defendant could be punished for the underlying offense with revocation imprisonment if she violates the conditions of supervised release even if the total amount of time that the defendant thereby spends in prison exceeds the statutory maximum for the underlying offense.” (citing *United States v. Hinson*, 429 F.3d 114, 116 n.7 (5th Cir. 2005))). But he emphasizes that, to date, the Government has sought (and the district court ordered) modification of his supervised release conditions, not revocation and imprisonment.

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detention “only as an alternative to incarceration”—we agreed with *Ferguson*. We held that the district court “could not impose both a term of incarceration (upon revocation of supervised release) and [a] subsequent [term of] home detention during a reimposed term of supervised release that, when combined, exceed[] the . . . maximum incarceration term” allowed by § 3583(e)(3). *Id.* at 851; *see also United States v. Polydore*, 493 F. App’x 496, 499 (5th Cir. 2012) (“*Ferguson* held that home detention may be credited against the maximum *term of imprisonment* that may be imposed following the revocation of supervised release.” (emphasis in original)). Accordingly, because *Ferguson*’s terms of imprisonment and home detention, when added together, exceeded the statutory maximum term of imprisonment, we vacated his sentence and remanded for re-sentencing. *Ferguson*, 369 F.3d at 852, 854.¹³

In *Hall*, the district court revoked Hall’s term of supervised release and sentenced him to two years’ imprisonment followed by a one-year term of home confinement. Since Hall had been convicted of a Class C felony, the maximum term of imprisonment that § 3583(e)(3) allowed upon revocation was two years. *Hall*, 64 F.4th at 1203 (citing 18 U.S.C. § 3583(e)(3)). On appeal, because both § 3563(b)(19) and § 3583(e)(4) authorize home confinement “only as an alternative to incarceration,” the Eleventh Circuit vacated Hall’s sentence to the extent that it imposed a term of home confinement.¹⁴ *Id.* at 1208. Explaining its decision, the Eleventh Circuit

¹³ In other words, *Ferguson* decided “only as an alternative to incarceration” meant that, whereas home detention *may* be substituted for a period of incarceration, the period of home detention *may not* be “added to”/“stacked on” a period of imprisonment such that the maximum authorized term is exceeded.

¹⁴ The Fourth Circuit recently reached the same conclusion. *See United States v. Watson*, 177 F.4th 601, 603 (4th Cir. 2026) (reasoning that § 3563(b)(19)’s proviso that “home detention ‘may be imposed only as an alternative to incarceration[]’ . . . means the

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reasoned that “a district court imposes home confinement ‘as an alternative to incarceration’ when it has the authority to impose a term of imprisonment but chooses to impose home confinement instead.” *Id.* at 1205–06.¹⁵ Because the district court could not sentence the defendant to a period of imprisonment in excess of the two years permitted by § 3583(e)(3), it likewise was precluded from ordering that a period of home confinement follow the two-year term of imprisonment. *Id.* at 1206 (“[T]he district court erred by imposing a term of home confinement when it could not have imposed the same term of imprisonment.”).

But, unlike the defendants in *Ferguson* and *Hall*, Tampico’s supervised release was not revoked and he was not sentenced to a term of imprisonment that is subject to the maximum amounts authorized by § 3583(e)(3). Hence, the statutory maximum terms that invalidated the home confinement ordered in *Ferguson* and *Hall* are not implicated.

Even so, Tampico argues, in essence, that the same principles apply (and are dispositive) here because he previously was sentenced to the maximum terms of imprisonment authorized by §§ 2252(a)(4)(B) and 2252A(a)(2) for his child pornography offenses. Although Tampico’s

combination of incarceration and home detention . . . cannot exceed the statutory maximum term of incarceration”).

¹⁵ Having defined the word “alternative” as “providing or being a choice between two or among more than two things,” and “agree[ing] that ‘home confinement is not incarceration,’” 64 F.4th at 1205–06, the *Hall* court added:

The whole point is that, under Section 3583(e)(4) or Section 3563(b)(19), they must be treated as “alternatives” that are not the same. That is, they are mutually exclusive options where the selection of imprisonment precludes, in some respects, the selection of home confinement.

Id. at 1206–07.

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argument is thought-provoking and certainly warrants a close look, we are not convinced, in light of the instant record, that he is correct.

In Tampico’s case, a period of home detention was *not* ordered (as a condition of supervised release) when he was originally sentenced in February 2000, or when he was resentenced in February 2003.¹⁶ In other words, the sentencing court did *not* couple Tampico’s statutory maximum term of imprisonment—30 years—with a term of supervised release that included a period of home confinement as a condition of release (in the manner of the *Ferguson* and *Hall* district courts vis-à-vis the revocation sentences of imprisonment and subsequent terms of home confinement at issue there). Instead, as authorized by § 3583(e)(2), the conditions of Tampico’s release were modified (to include home detention) *during* his term of supervision—after evidentiary hearings were held in March 2024 and October 2024—to address contemporary concerns, *not* Tampico’s pre-1999 criminal conduct.¹⁷

¹⁶ Tampico’s original sentencing occurred on February 14, 2000; his re-sentencing occurred on February 18, 2003.

¹⁷ Based on the documentation submitted (and the testimony provided during the March 2024 hearing), the court determined that Tampico “has not been internalizing and adopting some of the treatment and the instructions given.” Whereas “he [has] been compliant, it appears, when told to remove something from his cellphone or from his material that he collects, . . . he’s not compliant in the sense that [he] seeks out and adopts and brings in these things, including [a song with lurid lyrics].” According to the probation officer’s submission, Tampico’s counselor reported that Tampico “appears to struggle in recognizing the difference between high-risk behaviors/situations and those that are deemed appropriate for him to have or avoid.” And just before his October 2024 hearing, Tampico’s progress was described as “academic, meaning that he understands the terminology concepts, but has not internalized them, and he is not applying them at the level [expected of] someone who has been in treatment for six months while on supervised release, [and has had] extensive treatment while in the Bureau of Prisons.” Instead, “he just did not think about it.”

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At the same time, as of October 2024, neither the probation officer nor the Government alleged that Tampico's conduct, up to that point, violated the condition of his release requiring completion of a sex offender treatment program, or sought revocation of release in accordance with § 3583(e)(3). To the contrary, the record reveals the court's and parties' continued expectation and hope that Tampico eventually would successfully complete his sex offender treatment program and remain on release until the five-year term was served. In short, the court, having considered the relevant § 3553(a) factors,¹⁸ was satisfied, at that juncture, that home detention was an adequate substitute for revocation imprisonment.¹⁹

Finally, Tampico fails to persuade us that that a *supervising* court—presented with substantial public safety concerns in the early days of a supervised release term—is not authorized to add a home detention

¹⁸ At the conclusion of the hearing the court added:

Mr. Tampico, I know that from my reading of this history that you've got a lifetime problem you have dealt with, and the probation department and the government are trying to help you the best they can with treatment facilities. The important thing from the standpoint of the judicial system and the court is to protect children.

Nothing is more important. I hope even at this stage of your life that you'll be open to learning, controlling your impulses[,] following what directions are given to you[,] and trying to live as a good citizen.

¹⁹ Of course, should the district court ultimately determine, at some future time, that Tampico's efforts (toward successful completion of that program) are so deficient as to constitute a release violation warranting revocation and imprisonment, § 3583(e)(3)'s maximum amounts would, per *Ferguson*, delimit any accompanying term of home detention and, therefore, necessitate a time allocation between the two terms. Notably, however, on December 12, 2025, the Government, in response to our November 24, 2025 inquiry, advised: "Tampico is still on home detention and is satisfactorily participating in sex offender treatment." Even so, the record does not reflect that, in the interim, Tampico, the probation officer, and/or the Government has sought to convince the district court that Tampico's treatment has progressed to the point that home detention no longer is warranted.

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condition unless (1) a preponderance of available evidence also demonstrates that a violation warranting immediate revocation and imprisonment has already occurred;²⁰ or (2) the *sentencing* court happened to have ordered less than the maximum authorized term of imprisonment.

Tampico certainly has not identified any controlling (or even persuasive) authority supporting this proposition. And Congress well knows that some defendants will be sentenced to the statutory maximum term of imprisonment followed by a term of supervised release. Moreover, as explained above, § 3583(d) already requires that discretionary conditions of supervised release involve “no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D).”

Surely then, if Congress intended to restrict district courts’ authority in the manner, and to the extent, suggested by Tampico, it would have done so in much clearer terms, as it did in § 3583(d) regarding the imposition of the intermittent-incarceration condition set forth in § 3563(b)(10), and in § 3583(e) regarding an extension of a supervised release term. *See* 18 U.S.C. § 3583(d) (“The court may order . . . any condition set forth as a discretionary condition of probation in section 3563(b) and any other condition it considers to be appropriate, provided, however that a condition set forth in subsection 3563(b)(10) *shall be imposed only for a violation* of a condition of supervised release in accordance with section 3583(e)(2) *and only when* facilities are

²⁰ At the October 2024 hearing, Tampico’s counsel argued:

[I]f there had been a motion to revoke . . . filed and the Court wanted to imprison Mr. Tampico, then the imposition of home confinement as an alternative to imprisonment would be available. But nobody’s trying to imprison Mr. Tampico at the moment. So I don’t think that it’s legal for the Court to impose home confinement per the statute.

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available.” (emphasis added)); 18 U.S.C. § 3583(e)(2) (“The court may . . . extend a term of supervised release *if less than the maximum authorized term was previously imposed*[.]” (emphasis added)).²¹ Congress, however, did *not*

²¹ The wording of various other statutory provisions further demonstrates this point. *See, e.g.*, 18 U.S.C. § 3564(d) (“The court may, after a hearing, extend a term of probation, *if less than the maximum authorized term was previously imposed*, at any time prior to the expiration or termination of the term of probation” (emphasis added)); 18 U.S.C. § 3563(e) (“The results of a drug test administered in accordance with subsection (a)(5) shall be subject to confirmation *only if* the results are positive, *the defendant is subject to possible imprisonment* for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test.” (emphasis added)); 18 U.S.C. § 3583(e)(3) (“The court may . . . revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release . . . *if the court . . . finds* by a preponderance of the evidence that the *defendant violated a condition of supervised release . . .*” (emphasis added)); 18 U.S.C. § 3583(e)(1) (“The court may . . . terminate a term of supervised release . . . *if it is satisfied that such action is warranted* by the conduct of the defendant released and the interest of justice[.]” (emphasis added)).

Indeed, given that the 1988 amendment adding what are now § 3563(b)(19) and § 3583(e)(4), was motivated, at least in part, by the substantial cost savings achieved when home detention (as a condition of probation or supervised release) is a viable substitute for incarceration, it might be correct to say that the “exception” clauses’ restriction of the authority otherwise granted is triggered, and thus applies, only if and when a period of incarceration is contemplated. For example, where a term of probation or supervised release is to include, as a condition, the intermittent confinement authorized by § 3563(b)(10), or when, as in *Ferguson*, a release term is revoked and a term of imprisonment is imposed.

However, though worth pondering, we need not decide that particular question today. *See* Darren Gowen, *Overview of the Federal Home Confinement Program 1988–1996*, Fed. Prob. Dec. 2000, at 11, https://www.uscourts.gov/sites/default/files/64_2_2_0.pdf (discussing history and overview of the home confinement program in the federal courts); *id.* at 12 (explaining that until 1988 “home confinement . . . was imposed as a condition of probation under the court’s general authority to impose conditions of release that furthered the twin goals of probation: rehabilitation of the offender and protection of the community,” and that the “Anti-Drug Abuse Act of 1988 (Pub. L. No. 100-690, sec. 7304, 102 Stat. 4181,4465 (Nov. 18, 1988)), for the first time, provided explicit authority for the court to order home confinement as a condition of probation or supervised release”); *id.* at 11 (“In the federal courts, the home confinement program is used as an additional sentencing option more cost effective than imprisonment or halfway house placement.”); *id.* (“[Home confinement] is ordered by the court as a special condition of pretrial release, probation, or

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do so, and we decline to assume that such a significant, and easily stated, restriction on the district court's otherwise broad supervisory discretion was intended but yet so unclearly and unartfully expressed.²²

supervised release. [It] is also used as an intermediate sanction for supervision violators and by the BOP for inmates in pre-release status serving the last 10 percent of their imprisonment term under the direction of probation officers as a courtesy to the BOP.”); *see also* P. Hofer & B. Meierhoefer, *Home Confinement*, Federal Judicial Center (1987) (discussing the evolution of home confinement in the federal criminal justice system), <https://fjc.dcn/sites/default/files/2012/HmCnfine.pdf>; Administrative Office of the U. S. Courts, Location Monitoring Reference Guide 13 (March 2020), <https://www.uscourts.gov/file/28185/download> (“The cost of supervising a person on LM during post-conviction is also lower than the cost of incarceration.”).

²² Both Congress and the Supreme Court have emphasized that supervised release is intended to facilitate individual's successful transitions from prison to community life. *See Johnson*, 529 U.S. 53 at 59 (“Congress intended supervised release to assist individuals in their transition to community life. Supervised release fulfills rehabilitative ends, distinct from those served by incarceration”); *Johnson*, 529 U.S. at 708–09 (“The congressional policy in providing for a term of supervised release after incarceration is to improve the odds of a successful transition from the prison to liberty. . . . The Senate Report was quite explicit about this, stating that the goal of supervised release is ‘to ease the defendant’s transition into the community after the service of a long prison term for a particularly serious offense, or to provide rehabilitation to a defendant who has spent a fairly short period in prison for punishment or other purposes but still needs supervision and training programs after release.’ S.Rep. No. 98–225, p. 124 (1983).”).

Furthermore, in amendments to Chapter Seven of the United States Guidelines Manual (effective November 1, 2025), the Sentencing Commission recently provided updated policy statements and introductory commentary that, *inter alia*, recognize the need for judges to have the discretion necessary to properly manage supervised release, and “encourage judges to take an individualized approach in [] responding to reports of non-compliance before initiating revocation proceedings [,] considering all available options focused on facilitating a defendant’s transition into the community *and* promoting public safety.” *See* U.S.S.G., Ch.7, Pt. A, introductory cmt. (emphasis added). “These changes are intended to better allocate taxpayer dollars and probation resources, encourage compliance and improve public safety, and facilitate the reentry and rehabilitation of defendants.” *Id.* The Introductory Commentary to Part C of Chapter Seven, regarding violations of supervised release, adds:

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In sum, we have carefully reviewed the parties' submissions, the record, and pertinent legal authorities. Having done so, we are not convinced, in this instance, that the district court's modification of the conditions of supervised release to include home detention imposed an illegal sentence.

III.

Tampico also challenges the district court's October 2024 rulings regarding interest owed on the \$5,000 fine imposed at sentencing. As set forth in the October 9, 2024 order, the court, having heard argument and testimony, and analyzed the original and two amended judgments,²³ (1) found that Tampico had violated the terms of supervision by failing to pay \$1,992.86 in accrued interest on his fine; (2) found that interest in the amount of \$1,992.86 remained due; and (3) ordered Tampico to pay the unpaid balance in monthly payments of \$200.

Tampico contests the court's findings, arguing that he had not been ordered to pay interest on the fine; that the \$5,000 fine was paid in full in 2011; and that the Government was estopped from collecting interest because the Bureau of Prisons (BOP) told him, in 2011, that the fine balance was paid in full. Tampico's challenges are unavailing.

Because supervised release is intended to promote rehabilitation and ease the defendant's transition back into the community, the Commission encourages courts—where possible—to consider a wide array of options to respond to non-compliant behavior and violations of the conditions of supervised release. These interim steps before revocation are intended to allow courts to address the defendant's failure to comply with court-imposed conditions and to better address the needs of the defendant while also maintaining public safety.

Id., Pt. C introductory cmt.

²³ The original and amended judgments were entered on February 25, 2000, May 16, 2000, and February 28, 2003.

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Payment of interest on the fine is mandated by 18 U.S.C. § 3812(f). The district court may waive the interest requirement or modify the amount or length of time that the interest payment is required, but only “[i]f the court determines that the defendant does not have the ability to pay interest[.]” 18 U.S.C. § 3612(f)(3). The district court never found that Tampico was unable to pay interest and never waived or modified the statutorily required interest obligation. The fine was included in the original and amended judgments, and the sentencing judge did not check the box waiving the interest requirement in the original judgment, the amended judgment, or the second amended judgment.

Tampico nevertheless argues that the sentencing judge did not intend to order him to pay interest because, in the February 28, 2003 second amended judgment, *none* of the relevant boxes (regarding interest) were checked. By the time the second amended judgment was entered, the standard judgment form had been amended such that the sentencing judge was supposed to select one of two boxes to indicate whether either interest must be paid or interest was waived.

☐ The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
☐ the interest requirement is waived for the ☐ fine and/or ☐ restitution.
☐ the interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

As reflected in the February and May 2000 original and first amended judgments, previous judgment forms, in contrast, required the payment of interest *unless* the judge checked the box providing that the interest requirement was waived.

The district court rejected Tampico’s position, reasoning that, although the standard judgment form had changed, the substance of the

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judgment had not, and that the sentencing judge's failure to check the box on the 2003 document was an oversight. Additionally, because the reason for entering the second amended judgment (on remand) had nothing to do with the fine or whether interest on the fine was due, the judge had no authority to change the judgment except when required to do so by the appellate court.

Assuming interest is due, Tampico argued that the Government was estopped from collecting it, because he, while incarcerated, had paid the full balance of the \$5,000 fine (in 2011) and, thereafter, the BOP withdrew no additional amounts (for interest) from his prison account. Tampico introduced an "Inmate Financial Responsibility" printout that he claimed showed the fine had been "completed" and the balance was "0.00." The printout shows 13 payments, from June 4, 2005, through February 3, 2011, amounting to exactly \$5,000. It reflected that Tampico's "oblig status" (presumably obligation status) was "completedz" [*sic*] and his "oblig bal" (presumably obligation balance) was "0.00." The printout also reflects that this was "oblig 2" (presumably obligation 2), which, the Government argues, raises "a reasonable possibility that the interest obligation may have been accounted for separately, perhaps as obligation 1."

Despite finding it regrettable that the BOP had failed to understand that interest was due and had given Tampico erroneous information, the district court rejected Tampico's estoppel argument, reasoning that the statute of limitations did not run against the Government. The district court's findings are supported by the record and applicable law. Accordingly, the district court did not abuse its discretion by ordering Tampico to pay the accrued interest on his fine.

IV.

For the reasons stated, we are not persuaded that the district court erred in modifying the conditions of Tampico's supervised release to require

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home detention until he successfully completes the court-ordered sex offender treatment program, finding \$1,992.86 in accrued interest to be due, and ordering monthly payment of \$200 against that debt.

We AFFIRM.