

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 15, 2022

Lyle W. Cayce
Clerk

No. 20-10444
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

OSCAR FIERRO-ALVARADO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:19-CR-276-4

Before WIENER, DENNIS, and HAYNES, *Circuit Judges.*

PER CURIAM:*

Oscar Fierro-Alvarado pleaded guilty to one count of conspiracy to possess methamphetamine with intent to distribute and was sentenced to 235 months of imprisonment and four years of supervised release. On appeal, he challenges conditions of supervised release numbers four and eight imposed

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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in the written judgment, arguing that there is a conflict between the oral pronouncement and the written judgment. The challenged conditions require Fierro-Alvarado to “support [his] dependents and meet other family responsibilities” and to “not frequent places where controlled substances are illegally sold, used, distributed, or administered.” The Government has filed a motion to reform the judgment to omit the challenged conditions and affirm. Alternatively, the Government requests an extension of time to file its brief.

Inclusion of the two challenged conditions in the written judgment conflicts with the oral pronouncement of sentence. *See United States v. Diggles*, 957 F.3d 551, 559-63 & n.5 (5th Cir.) (en banc), *cert. denied*, 141 S. Ct. 825 (2020); *United States v. Mireles*, 471 F.3d 551, 558 (5th Cir. 2006). Accordingly, Fierro-Alvarado’s sentence is VACATED in part and REMANDED to the district court to amend the written judgment to remove conditions four and eight. In all other respects, the judgment is AFFIRMED. The Government’s motion to reform the judgment or, alternatively, to extend the time to file a brief is DENIED AS MOOT.