

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 10, 2026

Lyle W. Cayce  
Clerk

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No. 25-10818  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOSHUA WATERS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:23-CR-283-1

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Before ELROD, *Chief Judge*, and STEWART and HIGGINSON, *Circuit Judges*.

PER CURIAM:\*

Joshua Waters appeals following his conviction for possession of prepubescent child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B). He contends that the district court abused its discretion in overruling his objection to the condition of supervised release requiring him to participate in sex offender treatment that may include plethysmograph testing. The

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

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Government has filed an unopposed motion for summary affirmance, stating that the issue is foreclosed, and the appellant agrees that the argument is foreclosed but presses the issue for further review.

Summary affirmance is appropriate if “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The parties are correct that *United States v. Ellis*, 720 F.3d 220, 227 (5th Cir. 2013), forecloses Waters’s challenge to the condition of his supervised release.

Accordingly, the Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.