

United States Court of Appeals for the Fifth Circuit

No. 25-11030

United States Court of Appeals
Fifth Circuit

FILED

August 26, 2026

UNITED STATES OF AMERICA,

Lyle W. Cayce

Clerk

Plaintiff—Appellee,

versus

NORMAN TERRY MOSES,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:21-CR-82-1

Before STEWART, GRAVES, and WILSON, *Circuit Judges*.

PER CURIAM:*

In July 2022, Norman Terry Moses was sentenced to forty-six months' imprisonment and three years of supervised release for illegal receipt of a firearm by a person under indictment, in violation of 18 U.S.C. §§ 922(n), 924(a)(1)(D). In May 2025, the U.S. Probation Office (the "Probation Office") filed a petition for an arrest warrant, stating that Moses violated the conditions of his supervised release by, *inter alia*, committing a

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

No. 25-11030

new crime. Specifically, the petition alleged that Moses violated Texas Penal Code section 22.01(b)(8) by assaulting a pregnant person, his sister Quinshell Moses (“Quinshell”). *See* TEX. PENAL CODE § 22.01(b)(8). In September 2025, the district court held a revocation hearing and determined that Moses committed a new crime by assaulting Quinshell. *Id.* It then revoked his term of supervised release and imposed a twenty-month revocation sentence. Because Moses cannot show that the district court plainly erred, we AFFIRM.

I. Background

On January 4, 2022, Moses pleaded guilty to receiving a firearm while under indictment for aggravated robbery, in violation of 18 U.S.C. §§ 922(n), 924(a)(1)(D). On July 27, 2022, the district court sentenced Moses to forty-six months’ imprisonment and three years of supervised release. The district court imposed seven mandatory conditions, thirteen standard conditions, and two special conditions for his term of supervised release. Certain mandatory and standard conditions stated that Moses could not commit another crime, lie to the Probation Office, possess or use a controlled substance, or possess a firearm. The two special conditions stated that Moses was required to participate in outpatient substance abuse treatment and outpatient mental health treatment. Moses commenced his term of supervised release on December 5, 2024.

In May 2025, the Probation Office filed a petition for an arrest warrant, alleging that Moses violated the conditions of his supervised release by lying to the Probation Office, possessing a controlled substance, and possessing a firearm. The petition additionally asserted that Moses violated the special conditions of his supervised release by not complying with the drug treatment and mental health treatment requirements.

No. 25-11030

The petition referenced Moses's arrest arising out of a domestic dispute with his pregnant sister Quinshell at their shared residence. According to the petition and the incident report, Quinshell called Moses and told him to come to the apartment and collect his children. They began arguing, and Moses grabbed Quinshell "by the head with both hands and began hitting her multiple times against the [doorjamb]." Quinshell reported that Moses "grabbed her hair to hold her and ripped her hair out." She then "went to fight back by scratching his face and hitting . . . Moses in the face with the door lock to get him off her." Following that incident, he was charged with assaulting a pregnant person, in violation of Texas Penal Code section 22.01. The district court issued a warrant for Moses's arrest shortly thereafter.

In September 2025, the district court held a revocation hearing to determine whether Moses committed a new crime by assaulting Quinshell.¹ There, the district court heard additional evidence regarding Moses's domestic dispute with his sister from a responding officer, Alexa Riddle, and video exhibits. Officer Riddle testified that she and several other officers were responding to a domestic disturbance between siblings, adding that dispatch informed her "that the brother hit the sister," that "the brother was wearing a white shirt . . . [with] blue shorts," and that Quinshell "was pregnant at the time." When Officer Riddle arrived, she identified Moses, who was wearing a white shirt and blue shorts, and noticed that he had "a cut on his face from the middle of the forehead to . . . the bridge of the nose area." She also checked on Quinshell and observed "that she was missing a chunk of her hair

¹ Prior to the hearing, the Government abandoned two of three arrest allegations, leaving only Moses's assault on a pregnant person. Moses pleaded true to all violations except for the allegation that he assaulted his pregnant sister Quinshell.

No. 25-11030

from the top of her head.” Officer Riddle noticed that Quinshell had clumps of hair “on the floor . . . [and] some scratch marks on her shoulder.”

Officer Riddle then testified that Quinshell provided her version of events.² Quinshell explained that she called Moses and asked him to get his children because she was five-weeks pregnant and grieving the recent loss of their mother. Soon, Moses arrived at the apartment, walked towards Quinshell while she was sitting on the couch, and began arguing with her. Quinshell, in an attempt to get Moses to leave, placed her hands on him, in a non-aggressive manner, to guide him to the front door. Moses responded by grabbing her head with both hands, ripping her hair out, and continuously hitting her body against the doorjamb. She explained that, during the physical altercation, she asked Moses to stop hurting her because she was pregnant, and she began hitting him back by scratching his face and smashing the door lock against his head. Quinshell provided the officers with a physical demonstration of how the assault occurred. Neighbors who heard the incident ultimately broke up the altercation.

Officer Riddle testified that she also spoke with Moses outside of the apartment to get his version of events. According to Moses, he knew that Quinshell was pregnant. He then shared that Quinshell called him and said that she did not want to watch his children anymore. When Moses arrived, he saw Quinshell placing his children’s clothes outside. Moses was telling Quinshell that he did not like how she was treating his children when she allegedly lunged at him and began hitting him. Moses stated that he grabbed Quinshell’s hair to stop her attacks, which led to Quinshell scratching his face and cutting him with an unknown object. Officer Riddle also testified that

² According to Officer Riddle, Quinshell’s daughter, who injured her finger attempting to break up the altercation, also provided her version of events that matched what her mother reported to law enforcement.

No. 25-11030

several neighbors who witnessed the altercation stated that they saw Quinshell cut Moses's face and place his children's clothes outside. She further testified that Moses was subsequently arrested because, under these circumstances, Texas state law required "a law enforcement officer . . . to make an arrest to prevent further family violence."

At the revocation hearing, Moses's counsel highlighted several issues with Moses's arrest and Quinshell's report. First, counsel critiqued the responding officers for failing to interview witnesses who could corroborate Quinshell's aggression and how she cut Moses on his forehead. During Officer Riddle's cross-examination, Moses's counsel pointed to Officer Riddle's testimony that Quinshell made several inconsistent statements (i.e., saying she did not hit Moses at all and later admitting that she did). Next, Moses's counsel proffered Quinshell's criminal history as evidence of her "veracity problem" after "she lie[d] multiple times." Specifically, counsel shared Quinshell's domestic-related arrests and convictions involving theft, robbery, burglary, and criminal trespass.

At the end of witness testimony, Moses allocuted. He conceded that he violated the other conditions of his arrest, he shared his remorse over the circumstances, and he urged the court to be lenient. At the end of the hearing, the district court determined that Moses committed a new crime by assaulting a pregnant person. *See* TEX. PENAL CODE § 22.01. The district court then looked at section 9.31 of the Texas Penal Code to determine whether Moses met the elements of self-defense. While the district court concluded that Quinshell was the initial aggressor, and that Moses reasonably believed that force was immediately necessary to protect himself, the district court observed that the amount of force used by Moses was unreasonable and excessive. The district court sentenced Moses to twenty months'

No. 25-11030

imprisonment,³ reasoning that Moses’s “use of force to respond . . . was unreasonable.” It explained:

[G]iven the position of the doorway . . . [t]he easiest thing to stop the use of force with the lock, the lock had a chain on it, [was] to back out one foot and then you are out of the reach of it. And so I think because of the position and the lock being chained, I think it was excessive force used to defend himself.

In calculating the revocation sentence, the district court explained that Moses’s counsel “made good points” regarding Quinshell being “the initial aggressor.” It reasoned that, because Moses’s “use of force to respond was disproportion[ate],” it would impose an upward variant sentence of twenty months but it would “not go to the max of the statute and do [twenty-four months].” Neither the Government nor Moses objected to the district court’s sentencing determination.⁴ Moses timely appealed.

II. Jurisdiction

The district court had jurisdiction under 18 U.S.C. § 3231. We have appellate jurisdiction under 28 U.S.C. § 1291.

III. Standard of Review

We generally review a district court’s decision to revoke supervised release for abuse of discretion. *United States v. Brooker*, 858 F.3d 983, 985 (5th Cir. 2017). Additionally, we review “a sentence imposed on revocation

³ The petition provided the following Chapter 7 Sentencing Guidelines violation computations: a violation grade A, a criminal history category of V, and an imprisonment range of 30-37 months, capped by the statutory maximum twenty-four months’ imprisonment. The district court ultimately sentenced Moses to twenty months’ imprisonment.

⁴ Moses did not argue before the district court that it improperly imposed a duty to retreat.

No. 25-11030

of supervised release under a ‘plainly unreasonable’ standard, in a two-step process.” *United States v. Warren*, 720 F.3d 321, 326 (5th Cir. 2013) (quoting *United States v. Miller*, 634 F.3d 841, 843 (5th Cir.), *cert. denied*, 565 U.S. 976 (2011)). First, we determine whether the district court committed a “significant procedural error.” *Brooker*, 858 F.3d at 985 (citation modified). Then, “[i]f the district court’s sentencing decision lacks procedural error, . . . we consider the substantive reasonableness of the sentence imposed.” *Id.* (citation modified).

However, both parties correctly assert that the standard of review here is for plain error because Moses failed to object to the district court’s determination that he used unreasonable force.⁵ *United States v. Napper*, 978 F.3d 118, 122 (5th Cir. 2020) (“[B]ecause [the defendant] failed to raise these arguments in the district court, our review is for plain error only under Federal Rule of Criminal Procedure 52(b).”). Under this stringent standard, we “must determine whether the district court (1) committed an error, (2) that is plain, and (3) that affects substantial rights.” *United States v. Parra*, 111 F.4th 651, 656–57 (5th Cir. 2024) (citation modified). If those three requirements are met, we must then determine if the error “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* at 656 (quoting *United States v. Malmquist*, 92 F.4th 555, 562 (5th Cir. 2024)). If the error “does not ‘affect substantial rights’” then the error is “harmless.” *Id.* at 661 n.5 (quoting *United States v. Randall*, 924 F.3d 790, 795 (5th Cir. 2019)).

“Plain error is error that is ‘clear’ or ‘obvious.’” *Id.* at 660 (quoting *United States v. Trejo*, 610 F.3d 308, 319 (5th Cir. 2010)). This error “must

⁵ Because it is unclear whether Moses ultimately disputes the decision to revoke his supervised release or the revocation sentence, we apply plain error review to both claims.

No. 25-11030

be so clear or obvious that the district judge and prosecutor were derelict in countenancing it, even absent the defendant's timely assistance in detecting it." *Id.* (citation modified). Accordingly, "[t]he error in question cannot be 'subject to reasonable dispute.'" *Id.* (quoting *Puckett v. United States*, 556 U.S. 129, 135 (2009)). "The defendant has 'the burden of establishing entitlement to relief for plain error,' . . . [and] must 'establish[] each of the four requirements for plain-error relief.'" *Id.* at 656 (quoting *Greer v. United States*, 593 U.S. 503, 508 (2021)). "Reversal for plain error is warranted only in 'exceptional circumstances.'" *Id.* at 657.

On appeal, Moses argues that he had no duty to retreat,⁶ but he does not explicitly challenge (1) the district court's ultimate decision to revoke his supervised release or (2) his revocation sentence. We review each claim in turn.

⁶ Moses also argues that the district erred by denying his request for a jury trial. However, that issue is "foreclosed by precedent." *United States v. Alvear*, 959 F.3d 185, 191 n.2 (5th Cir. 2020) (first citing *United States v. Jimison*, 825 F.3d 260, 263 (5th Cir. 2016); and then citing *United States v. Hinson*, 429 F.3d 114, 119 (5th Cir. 2005)). Further, the district court struck Moses's jury request on "procedural grounds" because he submitted an untimely request. Therefore, we hold that the district did not err when it denied his untimely jury trial request.

No. 25-11030

IV. The Revocation of Supervised Release

A.

First, we examine whether the district court erred when it revoked Moses's term of supervised release. "Revocation of supervised release is mandatory under certain circumstances." *Brooker*, 858 F.3d at 985 (citing 18 U.S.C. § 3583(g)). If a defendant "possesses a controlled substance," "possesses a firearm," or "as part of drug testing, tests positive for illegal controlled substances more than [three] times over the course of [one] year," then revocation is mandatory. *See id.* at 985–86; § 3583(g)(1), (2), and (4).

B.

Here, Moses cannot show that the district court plainly erred when it revoked his term of supervised release. Moses admitted to committing several violations that independently require mandatory revocation. *See* § 3583(g). Specifically, Moses admitted to possessing a controlled substance (marijuana) and testing positive for drug use at least three times in one year. *See id.* § 3583(g)(1), (2), and (4); *see also Brooker*, 858 F.3d at 985–86; He also admitted to failing to participate in a treatment program and refusing to participate in a psychiatric evaluation. Therefore, we hold that the district court did not plainly err by revoking Moses's supervised release. *See Brooker*, 858 F.3d at 985 (citation omitted).

V. The Revocation Sentence

A.

Next, we examine whether the district court erred when it imposed a twenty-month revocation sentence and held that Moses committed a new crime by assaulting Quinshell. Even if mandatory revocation does not apply, a district court may still consider other violations, such as the commission of a new crime, when deciding whether to impose a sentence of imprisonment.

No. 25-11030

See 18 U.S.C. § 3583(e)(3); *see also United States v. Flores*, 130 F.4th 465, 471 (5th Cir. 2025) (“A district court has broad discretion under [section] 3583(e) when a defendant violates conditions of supervised release, and there are no mandatory minimum sentences imposed by that subsection.”).

Under Texas Law, a person commits assault, a Class A misdemeanor, if he “intentionally, knowingly, or recklessly causes bodily injury to another.” TEX. PENAL CODE § 22.01(a)(1), (b). Critically, if a person assaults someone that he knows “is pregnant at the time of the offense,” then he commits a third-degree felony.⁷ *Id.* § 22.01(b), (b)(8). However, a person is justified in using force against another person if he “reasonably believes the force is immediately necessary to protect the actor against the other’s use or attempted use of unlawful force.”⁸ *Id.* § 9.31(a). Such belief is presumed to be reasonable if the accused:

(1) knew or had reason to believe that the person against whom the force was used:

- (A) unlawfully and with force entered, or was attempting to enter unlawfully and with force, the actor’s occupied habitation, vehicle, or place of business or employment;
- (B) unlawfully and with force removed, or was attempting to remove unlawfully and with force, the actor from the actor’s habitation, vehicle, or place of business or employment; or
- (C) was committing or attempting to commit aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery;

⁷ Texas Penal Code section 22.01 has been updated. The version at issue in this case was in effect from February 6, 2024, to August 31, 2025.

⁸ Texas Penal Code section 9.31, the “Self-Defense” statute, previously required a factfinder to consider whether “a reasonable person . . . would not have retreated.” *Morales v. State*, 357 S.W.3d 1, 4 (Tex. Crim. App. 2011). In 2007, Texas legislators amended the statute to remove the duty to retreat. *Id.* at 2.

No. 25-11030

(2) did not provoke the person against whom the force was used; **and**

(3) was not otherwise engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic at the time the force was used.

Id. § 9.31(a)(1)–(3) (emphasis added). Texas Penal Code section 9.31 further states:

(e) A person who has a right to be present at the location where the force is used, who has not provoked the person against whom the force is used, and who is not engaged in criminal activity at the time the force is used **is not required to retreat before using force** as described by this section.

(f) For purposes of Subsection (a), in determining whether an actor described by Subsection (e) reasonably believed that the use of force was necessary, a finder of fact **may not consider whether the actor failed to retreat**.

Id. § 9.31(e), (f) (emphasis added).

B.

Moses cannot establish that the district court plainly erred when it determined that he committed a new crime and imposed a twenty-month revocation sentence. Moses argues that the district court required him “to retreat from his home in order to claim self-defense” under section 9.31 of the Texas Penal Code. As stated previously, the district court explicitly stated that Moses was entitled to exercise self-defense under section 9.31 because he reasonably believed that force was immediately necessary to protect himself. TEX. PENAL CODE § 22.01(a)(1), (b)(8). But use of force in self-defense must still “be in proportion to the force encountered.” *Garrison v. State*, No. 04-22-00554-CR, 2024 WL 1748040, at *2 (Tex. App.—San Antonio Apr. 24, 2024, no pet.) (mem. op.) (citation omitted).

No. 25-11030

Although the district court remarked that “[t]he easiest thing to stop the use of force” was to step back, it is not clear that the court was imposing a duty to retreat instead of finding that his use of force was disproportionate. Here, Quinshell was hitting Moses with a lock chain attached to the front door in a confined area. Meanwhile, Moses was pulling on Quinshell, ripping out her hair, and forcefully hitting her against the doorjamb. Thus, the district court determined that because Moses used an excessive amount of force when responding to Quinshell, he violated section 22.01 of the Texas Penal Code. *See* TEX. PENAL CODE § 22.01(b), (b)(8). The district court’s remark regarding Moses not taking a step back was likely directed at his use of excessive force, especially given the court’s later comment that Moses’s “use of force to respond was disproportion[ate] and was unreasonable.” *Parra*, 111 F.4th at 660; TEX. PENAL CODE § 9.31(e), (f). Therefore, we hold that the district court did not plainly err when it held that Moses violated the terms and conditions of his supervised release and sentenced him to twenty months’ imprisonment.

VI. Conclusion

For these reasons, we AFFIRM.