

United States Court of Appeals for the Fifth Circuit

No. 25-40598
CONSOLIDATED WITH
No. 25-40600
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE ALBERTO RESENDEZ-HERNANDEZ,

Defendant—Appellant.

Appeals from the United States District Court
for the Southern District of Texas
USDC Nos. 7:25-CR-425-8,
7:24-CR-2042-1

Before CLEMENT, HAYNES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Jose Alberto Resendez-Hernandez pleaded guilty to unlawfully reentering the United States and to aiding and abetting the assault of correctional officers. 8 U.S.C. § 1326(a), (b); 18 U.S.C. § 111(a)(1), (a)(2). At

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

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sentencing, the district court imposed respective 24-month and 48-month terms of imprisonment to run consecutively.

In this consolidated appeal, Resendez-Hernandez avers that his guilty plea with respect to the assault offense was unknowing and involuntary because facts beyond those alleged in the indictment or admitted by him were used to increase his guidelines range at sentencing. But Resendez-Hernandez abandoned this argument below by limiting his notice of appeal to his “Sentence Only.” *See United States v. Mendoza-Lozano*, 169 F.4th 605, 607 (5th Cir. 2026) (per curiam), *petition for cert. filed*, No. 25-7603 (U.S. June 8, 2026) (“Although we liberally interpret notices of appeal, Mendez-Lozano expressly limited the scope of his appeal to his sentence. Mendez-Lozano has therefore waived any challenge to his conviction.”). Accordingly, Resendez-Hernandez’s appeal challenging his guilty plea is DISMISSED.

Next, Resendez-Hernandez contends that the district court made two erroneous findings that ballooned his advisory guideline range.

First, he argues that the court erred in finding that a dangerous weapon was used for purposes of U.S.S.G. § 2A2.4(c)(1) and § 2A2.2(b)(2)(B). This argument fails because Resendez-Hernandez is accountable for the reasonably foreseeable conduct of his codefendants. *Id.* § 1B1.3(a)(1)(B). Indeed, the district court correctly concluded that a sock containing a hard object, when swung at someone’s head, is a dangerous weapon. *See United States v. Olarte-Rojas*, 820 F.3d 798, 802 (5th Cir. 2016) (“[I]n the proper circumstances, almost anything can count as a dangerous weapon, including walking sticks, leather straps, rakes, tennis shoes, rubber boots, dogs, rings, concrete curbs, clothes irons, and stink bombs.” (quoting

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United States v. Nunez-Granados, 546 F. App'x 483, 486 (5th Cir. 2013) (per curiam)).

Second, Resendez-Hernandez insists that the district court erred in finding that a serious bodily injury was sustained for purposes of U.S.S.G. §§ 2A2.4(c)(1), 2A2.2(b)(3)(B), and 3A1.2(c)(2). He is mistaken. The district court did not find that the correctional officers suffered serious bodily injuries as contemplated by § 2A2.2. It ruled that a four-level increase in offense level was justified because the officers' injuries fell somewhere between "bodily injury" and "serious bodily injury." *See id.* § 2A2.2(b)(3)(D). One officer required stitches after suffering a laceration to the top of his head. The other officer was kicked and punched until his face turned red and swollen. Those injuries support the increase.

We AFFIRM.