

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2026

Lyle W. Cayce
Clerk

No. 25-50649
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROGELIO GOMEZ MENDOZA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:23-CR-41-6

Before KING, HIGGINSON, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Rogelio Gomez Mendoza appeals the within-guidelines sentence imposed following his conviction for conspiracy to possess with intent to distribute methamphetamine. He also raises a claim of ineffective assistance of counsel.

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

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The district court did not plainly err by ordering Gomez Mendoza's sentence to run consecutively to the sentence for his prior conviction for conspiracy to possess with intent to distribute methamphetamine, which it implicitly found was not relevant conduct, instead of applying U.S.S.G. § 5G1.3(b) to order the sentence to run concurrently. *See Puckett v. United States*, 556 U.S. 129, 135 (2009); *United States v. Barfield*, 941 F.3d 757, 762 (5th Cir. 2019) (discussing relevant conduct in drug trafficking cases); *United States v. Horton*, 993 F.3d 370, 375 (5th Cir. 2021) (discussing PSR indicators of whether conduct was relevant); U.S.S.G. § 1B1.3, comment. (n.5(B)(i)-(ii)).

We also reject Gomez Mendoza's argument that the district court failed to adequately explain the sentence, because he bases that argument on the flawed premise that the district court's failure to apply § 5G1.3(b) resulted in an above-guidelines sentence. *See* U.S.S.G. § 5G1.3; *cf. Barfield*, 941 F.3d at 762.

Further, Gomez Mendoza has not rebutted the presumption of reasonableness afforded to his sentence. *See United States v. Candia*, 454 F.3d 468, 473 (5th Cir. 2006) (explaining that a consecutive sentence imposed within federal guidelines parameters is presumed reasonable); *United States v. Fatani*, 125 F.4th 755, 761 (5th Cir. 2025) (same). Gomez Mendoza's arguments fail to overcome this presumption for his within-Guidelines sentence.

Finally, because the record is not sufficiently developed to allow us to make a fair evaluation of Gomez Mendoza's ineffective assistance claim, we decline to consider it without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

AFFIRMED.