

United States Court of Appeals for the Fifth Circuit

No. 25-50926
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 19, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ALEJANDRO GONZALEZ-ACUNA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:25-CR-1325-1

Before BARKSDALE, GRAVES, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Alejandro Gonzalez-Acuna pleaded guilty to illegal reentry of the United States, in violation of 8 U.S.C. § 1326(a) and (b)(1) (criminalizing conduct). He challenges his above-Guidelines 24-months' imprisonment sentence with three-years' supervised release. He contends, for the first time on appeal, that: his sentence is procedurally and substantively unreasonable;

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

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and the court erred in imposing a term of supervised release on him, a deportable alien. (Gonzalez also asserts, but only in passing, that the district court relied improperly upon retributive sentencing factors while imposing a term of supervised release. *See* 18 U.S.C. § 3583(c) (enumerating permissible factors). By failing to properly brief this contention, he abandoned it. *E.g.*, *United States v. Scroggins*, 599 F.3d 433, 446–47 (5th Cir. 2010).)

Because Gonzalez did not preserve the above three issues in district court, review is only for plain error. *E.g.*, *United States v. Broussard*, 669 F.3d 537, 546 (5th Cir. 2012). Under that standard, Gonzalez must show a forfeited plain error (clear-or-obvious error, rather than one subject to reasonable dispute) that affected his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes that showing, we have the discretion to correct the reversible plain error, but generally should do so only if it “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings”. *Id.* (citation omitted).

Turning first to Gonzalez’ procedural-unreasonableness challenge, he contends the court failed to sufficiently explain his upward-variance sentence. *See Gall v. United States*, 552 U.S. 38, 50 (2007) (requiring courts to “adequately explain the chosen sentence to allow for meaningful appellate review and to promote the perception of fair sentencing”). Assuming *arguendo* that the court failed to adequately explain his sentence, he fails to show such error “affected the outcome of the district court proceedings”. *Puckett*, 556 U.S. at 135 (citation omitted). Accordingly, he fails to show his sentence affects his substantial rights. *Id.*

Next, Gonzalez challenges the substantive reasonableness of his sentence. As before, we review for plain error; Gonzalez raised a general challenge to his sentence, but not the precise contention he now makes. *See United States v. Zarco-Beiza*, 24 F.4th 477, 481–82 (5th Cir. 2022) (requiring

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detailed objection to preserve precise substantive-reasonableness assertion). He fails to show: any “factor that should have received significant weight”; the court gave “significant weight to an irrelevant or improper factor”; or that the sentence “represents a clear error of judgment in balancing the sentencing factors”. *United States v. Fraga*, 704 F.3d 432, 440 (5th Cir. 2013) (citation omitted). As such, he fails to show the requisite clear-or-obvious error. *See Puckett*, 556 U.S. at 135.

For the third and final issue, our plain-error review of the imposition of supervised release on Gonzalez—again, a deportable defendant—without providing an individualized justification, Guideline § 5D1.1(c) provides: “The court ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment”. Along that line, “supervised release should not be imposed [on a deportable defendant] absent a determination that supervised release would provide an added measure of deterrence and protection based on the facts and circumstances of a particular case”. *United States v. Dominguez-Alvarado*, 695 F.3d 324, 329 (5th Cir. 2012). The court considered Gonzalez’ criminal history and likelihood of recidivism (he had, *inter alia*, five prior removals without prosecution), showing the court likely imposed the supervised release term as “an added measure of deterrence”. *Id.*; *E.g.*, *United States v. Cancino-Trinidad*, 710 F.3d 601, 606–07 (5th Cir. 2013) (holding deportable defendant’s “criminal record support[ed] a finding that the imposition of [supervised release] would provide an added measure of deterrence” (citation omitted)). Accordingly, even assuming a clear-or-obvious error, he fails to show the imposition of supervised release without an individualized justification affects his substantial rights. *See id.* at 606 (“A sentencing error affects a defendant’s substantial rights if he can show a reasonable probability that, but for the district court’s misapplication of the Guidelines, he would

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have received a lesser sentence.” (citation omitted)); *Dominguez-Alvarado*, 695 F.3d at 327–28.

AFFIRMED.