

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 24, 2026

Lyle W. Cayce
Clerk

No. 26-20068
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROLLIE ANDRE LOTT,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CR-734-1

Before WILLETT, DUNCAN, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Rollie Andre Lott appeals his 18-month revocation sentence, arguing that the district court improperly relied on his lack of respect for the law, an improper factor under 18 U.S.C. § 3553(a)(2)(A). Because Lott did not preserve this issue for appeal, we review for plain error only. *See United States v. Cano*, 981 F.3d 422, 425 (5th Cir. 2020).

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

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When imposing a revocation sentence, the district court may consider only specific factors. *See* 18 U.S.C. § 3583(e). Proper factors include the nature and circumstances of the offense, the history and characteristics of the defendant, the need for the sentence to afford adequate deterrence to criminal conduct, and the need for the sentence to protect the public from other crimes of the defendant. *See* 18 U.S.C. § 3583(e); 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C). The Supreme Court has held that a district court may *not* consider the retributive factors under § 3553(a)(2)(A)—“the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense”—when revoking supervised release because Congress deliberately excluded them from consideration. *See Esteras v. United States*, 606 U.S. 185, 194–97 (2025); 18 U.S.C. § 3583(c).

In *Esteras*, the Court noted, but did not comment on, this circuit’s “intermediate” approach to the issue. *Id.* at 190 n.1. (citing *United States v. Sanchez*, 900 F.3d 678, 684 n.5 (5th Cir. 2018) (explaining that the forbidden factor must be a “dominant” consideration to constitute reversible error)). Likewise, the Court “t[ook] no position” on whether § 3583(e) precludes district courts’ considering retribution “*for the violation of the conditions of the supervised release*,” rather than “considering retribution for the underlying criminal conviction.” *Id.* at 190 n.5 (emphasis in original)(reasoning that “§ 3553(a)(2)(A) speaks only to the ‘offense,’ and ‘offense’ here can mean only the underlying criminal conviction”); *id.* at 193–94 (“In the context of a revocation hearing, the ‘offense’ is the underlying crime of conviction, not the violation of the supervised-release conditions.”)

We have not addressed what effect, if any, *Esteras* has on our prior jurisprudence, and we need not do so in this case because Lott has not shown

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a clear or obvious error. *See Cano*, 981 F.3d at 425–26. Despite Lott’s assertions to the contrary, the district court’s statement regarding Lott’s “egregious disregard for the law” does not reveal that the court based its sentencing decision on a prohibited factor. Rather, in the context of the court’s other remarks, it is clear that the court’s statement was directed at Lott’s failure to comply with his obligations under the terms and conditions of his supervised release term. Consequently, Lott has not established that the district court made a clear or obvious error in determining his revocation sentence. *See Cano*, 981 F.3d at 425–26.

AFFIRMED.