

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-41028

United States Court of Appeals
Fifth Circuit

FILED

December 4, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

FABIAN LOPEZ-RAMIREZ, also known as Neftali Zuniga-Diaz,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:13-CR-423-1

Before DAVIS, WIENER, and HAYNES, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Fabian Lopez-Ramirez appeals the district court’s written judgment to the extent it is in conflict with the district judge’s oral pronouncement.

At sentencing, the district judge stated that Lopez-Ramirez must “advise any law enforcement officer stopping [him] that [he is] on supervision for illegal reentry.” However, the special conditions section of the written judgment provides that “upon contact with law enforcement, [Lopez-Ramirez] shall

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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inform [the officer(s)] that he is an undocumented alien who is on supervised release.” Lopez-Ramirez argues that the written requirement that he identify himself as an “undocumented alien” is more onerous than the oral condition and violates the Fifth Amendment. The government argues that, to the extent the conditions conflict, the written condition is narrower and less burdensome than the oral condition.

Without reaching Lopez-Ramirez’s constitutional argument, we conclude that the written judgment does not mirror the oral pronouncement. Accordingly, we remand the case so that the district court may conform the written judgment to the oral pronouncement of the special condition of supervised release. *See United States v. Torres-Aguilar*, 352 F.3d 934, 935 (5th Cir. 2003) (per curiam) (“[W]hen there is a conflict between a written sentence and an oral pronouncement, the oral pronouncement controls.” (quoting *United States v. Martinez*, 250 F.3d 941, 942 (5th Cir. 2001))).

REMANDED FOR CONFORMANCE OF WRITTEN JUDGMENT.