

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

No. 18-10203
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
December 11, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RANDY DEWAYNE PITTMAN,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:15-CR-221-1

Before DAVIS, HAYNES, and GRAVES, Circuit Judges.

PER CURIAM:*

Randy Dewayne Pittman appeals his sentence of 51 months in prison, imposed following his guilty plea conviction of possession of a firearm by a convicted felon and this court's remand to the district court to correct the term of supervised release. *See United States v. Pittman*, 698 F. App'x 175, 176 (5th Cir. 2017).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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The Government contends that Pittman's argument is barred under the mandate rule by this court's order on remand. We agree. Although the mandate rule is one of judicial discretion and there can be exceptions, the exceptions do not apply in the instant matter. *See United States v. Pineiro*, 470 F.3d 200, 205-06 (5th Cir. 2006); *United States v. Lee*, 358 F.3d 315, 320-21 (5th Cir. 2004), *cf. Deutsche Bank National Trust Co. v. Burke*, 902 F.3d 548, 551 (5th Cir. 2018).

The judgment of the district court is AFFIRMED. The motion to expedite the appeal is DENIED as moot.