

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 1 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THERESA ANNE CHABOT,

Defendant - Appellant.

No. 23-287

D.C. No. 9:22-cr-00018-DLC-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Dana L. Christensen, District Judge, Presiding

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

Theresa Anne Chabot appeals the inclusion of the standard conditions of supervised release in the written judgment, which the court entered following her guilty-plea conviction for conducting an unlicensed money transmitting business, in violation of 18 U.S.C. § 1960. We have jurisdiction under 28 U.S.C. § 1291.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We vacate the standard conditions and remand with instructions.

Chabot contends that the district court erred under *United States v. Montoya*, 82 F.4th 640 (9th Cir. 2023) (en banc), because it did not orally impose, or provide her a list of, the standard conditions of supervised release prior to judgment.

Although Chabot waived her right to appeal her sentence, the government does not seek to enforce the waiver. *See United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc) (appeal waivers are non-jurisdictional and forfeitable). Instead, it concedes that the district court erred and concurs with Chabot that remand is appropriate. Accordingly, we vacate the standard supervised release conditions included in the written judgment and remand for the limited purpose of permitting the district court to orally pronounce any standard conditions it wishes to impose and after giving Chabot an opportunity to object. *See Montoya*, 82 F.4th at 656.

VACATED IN PART and REMANDED.