

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

United States Court of Appeals
Fifth Circuit

FILED

February 12, 2010

Charles R. Fulbruge III
Clerk

No. 09-40133

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MELISSA ANN CASAS,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:03-CR-1734-4

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

Melissa Ann Casas appeals the 28-month sentence imposed following the third revocation of her supervised release following her guilty plea to marijuana distribution. Casas argues that the district court's upward variance was procedurally and substantively unreasonable. As Casas did not object on these bases in the district court, our review is for plain error only. *See United States v. Whitelaw*, 580 F.3d 256, 259-60 (5th Cir. 2009).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The sentencing transcript refutes Casas's allegation that the district court committed procedural error by failing to adequately articulate the reasons for the upward variance. Additionally, the record indicates that the district court gave adequate consideration to the 18 U.S.C. § 3553(a) factors and did not exceed the statutory maximum term of imprisonment authorized upon revocation of supervised release. Casas has therefore not shown plain error with regard to either the procedural or substantive reasonableness of her sentence. *See id.* at 265.

AFFIRMED.