

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

August 25, 2010

Lyle W. Cayce
Clerk

No. 09-50945

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARK DAVID MCCARTY,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:09-CR-195-1

Before JONES, Chief Judge, and SMITH and CLEMENT, Circuit Judges.

PER CURIAM:*

Mark David McCarty has appealed the district court's order revoking his supervised release. McCarty contends that the district court violated his right to due process in failing to enter a written order specifying the evidence it relied upon in revoking his supervised release and in failing to specify which violations it relied upon. Because McCarty did not raise these questions in the district court, this court's review is for plain error. *See United States v. Gonzalez*, 250

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.3d 923, 930 (5th Cir. 2001); *see also Puckett v. United States*, 129 S. Ct. 1423, 1429 (2009).

McCarty admitted the allegations in the petition for warrant or summons for offender under supervision, and he was given an opportunity to offer mitigating evidence. *See United States v. Holland*, 850 F.2d 1048, 1050-51 (5th Cir. 1988). He contested only two facts, repayment of the \$100 loan and violation of the cell-phone rule; the remaining allegations, with respect to failure to make restitution, violation of the prescription-drug rules, and failure to maintain lawful employment, were not contested. There was no error, plain or otherwise. *See id.*

AFFIRMED.