

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 22, 2019

Lyle W. Cayce  
Clerk

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No. 18-40420  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAFAEL GANDARIA, also known as Rafael Gandarilla,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 1:17-CR-7-1

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Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant Rafael Gandaria was convicted of being a felon in possession of a firearm and was sentenced to 87 months of imprisonment. Gandaria contends that the district court erred when it denied his motion to withdraw his guilty plea. At the final sentencing hearing, however, Gandaria explicitly withdrew his motion to reconsider in which he had sought to withdraw his guilty plea. Gandaria's claims are therefore waived and

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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unreviewable by this court. *See United States v. Rodriguez*, 602 F.3d 346, 350-51 (5th Cir. 2010); *United States v. Arviso-Mata*, 442 F.3d 382, 384 (5th Cir. 2006). The district court's judgment is AFFIRMED.