

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 27, 2020

Lyle W. Cayce
Clerk

No. 19-40665
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FABIAN GONZALEZ MORA, *also known as* FABIAN MORA
GONZALEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:16-CR-481-1

Before KING, SMITH, and WILSON, *Circuit Judges.*

PER CURIAM:*

Fabian Gonzalez Mora pleaded guilty to conspiracy to possess with the intent to distribute five kilograms or more of cocaine, and he was sentenced to 135 months of imprisonment and five years of supervised

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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release. The district court's written judgment imposed two special conditions of supervised release that Gonzalez Mora now challenges: one requiring him to report to the nearest probation office immediately if he returns to the United States and another directing that active supervision would automatically reactivate upon his reporting.

We review for abuse of discretion because these written special conditions were neither mandatory nor orally pronounced at sentencing. *See United States v. Diggles*, 957 F.3d 551, 559-63 (5th Cir. 2020) (en banc), *petition for cert. filed* (U.S. Sept. 24, 2020) (No. 20-5836); *see also United States v. Huor*, 852 F.3d 392, 397 (5th Cir. 2017). The district court abused its discretion by imposing these two special conditions in the written judgment because they were more burdensome than the special conditions it announced during the sentencing hearing. *See Diggles*, 957 F.3d at 559-63; *United States v. Mudd*, 685 F.3d 473, 480 (5th Cir. 2012); *United States v. Bigelow*, 462 F.3d 378, 380 (5th Cir. 2006).

Accordingly, the judgment of the district court is VACATED IN PART, and the matter is REMANDED to the district court for the limited purpose of conforming the written judgment with the oral pronouncement of sentence.