

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 10, 2020

Lyle W. Cayce
Clerk

No. 19-50747
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

SAN JUAN BARBOZA-RODRIGUEZ, *also known as* SAN JUAN
BARBOZA RODRIGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:17-CR-171-1

Before JOLLY, ELROD, and GRAVES, *Circuit Judges.*

PER CURIAM:*

San Juan Barboza-Rodriguez appeals the sentence imposed following his conviction for possession with intent to distribute 500 grams or more of cocaine. He contends that the district court plainly erred by ordering a

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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special condition of supervised release requiring him to undergo mental health treatment. The Government, conceding error, asks us to strike the condition, reform the written judgment, and affirm as modified.

The district court did not explain how its imposition of the mental health treatment condition was reasonably related to any of the 18 U.S.C. § 3553(a) factors, and the court's reasoning cannot be inferred from the record. *See United States v. Alvarez*, 880 F.3d 236, 239-40 (5th Cir. 2018). We thus conclude that Barboza-Rodriguez has shown clear or obvious error. *See id.* at 240-41. Barboza-Rodriguez has further shown that the error affected his substantial rights because he must pay for the costs of the treatment, it may require a significant time commitment, and it creates a possibly unwarranted perception that he requires treatment. *See id.* at 241. Because of the significant autonomy and privacy concerns, we exercise our discretion to remedy the error. *See id.* at 242.

Accordingly, we GRANT the Government's motion, MODIFY the judgment to strike the special condition of release requiring Barboza-Rodriguez to undergo mental health treatment, and AFFIRM the judgment as modified. *See* 28 U.S.C. § 2106. The Government's alternative motion for an extension of time to file a brief is DENIED AS MOOT.