

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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MAURICIO AGUIRRE,

*Petitioner*

v.

UNITED STATES OF AMERICA

*Respondent*

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APPENDIX

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Appendix A Judgment and Sentence of the United States District Court for the Northern District of Texas

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## APPENDIX A

**United States District Court**

NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**  
(For Revocation of Probation or Supervised Release)

v.

**MAURICIO AGUIRRE**

Case Number: **3:16-CR-00454-D(1)**

USM Number: **70318-080**

**Lara Meghan Wynn**

Defendant's Attorney

**THE DEFENDANT:**

Pleaded not true to the alleged violation of a Special Condition.

The defendant is adjudicated guilty of these violations:

Special Condition.

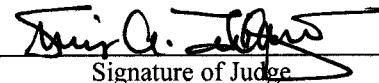
The defendant is sentenced as provided in pages 1 and 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has not violated condition(s) and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

**December 7, 2018**

Date of Imposition of Judgment



Signature of Judge

**SIDNEY A. FITZWATER  
SENIOR JUDGE**

Name and Title of Judge

**December 10, 2018**

Date

DEFENDANT: MAURICIO AGUIRRE  
CASE NUMBER: 3:16-CR-00454-D(1)

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:  
twenty-four (24) months .

The court makes the following recommendations to the Bureau of Prisons:

that the defendant be given an expedited designation to a medical facility, if eligible.

that the defendant be given a psychological evaluation and treatment and be assigned to a facility where he can receive such treatment.

The defendant is remanded to the custody of the United States Marshal.  
 The defendant shall surrender to the United States Marshal for this distr

at  a.m.  p.m. on

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By  
DEPUTY UNITED STATES MARSHAL

## APPENDIX B

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

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No. 18-11611  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

September 10, 2019

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MAURICIO AGUIRRE, also known as Mauricio Aguirre-Orcutt, also known as Peter Holston-Aguirre, also known as Peter Holston, also known as Miller Aguirre,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:16-CR-454-1

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Before DAVIS, SMITH and HIGGINSON, Circuit Judges.

PER CURIAM:\*

Appealing the judgment on revocation of supervised release, Mauricio Aguirre argues that the district court violated his Sixth Amendment rights by finding, without a jury trial, that he violated his conditions of supervised release by a preponderance of the evidence. The Government has filed an unopposed motion for summary affirmance, requesting alternatively an

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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.

extension of time to file its brief. Summary affirmance is proper where, among other instances, “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

In *United States v. Hinson*, 429 F.3d 114, 117-19 (5th Cir. 2005), we held that revocation of supervised release is not part of a criminal prosecution and therefore does not require a jury trial or proof beyond a reasonable doubt under the Sixth Amendment. Aguirre concedes that *Hinson* forecloses his argument but, at the time he filed his brief, noted that the Supreme Court had granted certiorari in *United States v. Haymond*, 139 S. Ct. 398 (2018).

In *Haymond*, the Supreme Court held that a revocation of supervised release and imposition of a mandatory minimum sentence pursuant to 18 U.S.C. § 3583(k), based on judge-made findings by a preponderance of the evidence, violated due process and the right to a trial by jury. *United States v. Haymond*, 139 S. Ct. 2369, 2378-83 (2019). Unlike § 3583(k), which mandated a mandatory minimum of five years for certain offenses such as possession of child pornography, Aguirre’s revocation under 18 U.S.C. § 3583(e)(3) did not include a mandatory minimum based on judge-found facts. *See* § 3583(k). Further, the *Haymond* plurality emphasized that its decision was limited to § 3583(k) and its mandatory minimum provision. *Haymond*, 139 S. Ct. at 2382-84 & n.7. In light of *Haymond*’s limited holding, Aguirre’s sole argument remains foreclosed under *Hinson*. *See id.*; *Hinson*, 429 F.3d at 117-19.

Accordingly, the Government’s motion for summary affirmance is GRANTED, its alternative motion for extension of time is DENIED, and the judgment of the district court is AFFIRMED. *See Groendyke*, 406 F.2d at 1162.