

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDDIE ESTUARDO GALINDO-MENDEZ,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

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APPENDIX A

United States District Court

Northern District of Texas
Lubbock Division

UNITED STATES OF AMERICA

v.

EDDIE ESTUARDO GALINDO-MENDEZ
Defendant.

Case Number: 5:18-CR-00025-C(01)
USM No. 57056-177

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, EDDIE ESTUARDO GALINDO-MENDEZ, was represented by Sherylynn A. Kime-Goodwin.

The defendant pleaded guilty to count 1 of the indictment filed March 21, 2018. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
18 U.S.C. § 2113(a)	Bank Robbery	11/20/2017	1

As pronounced on November 9, 2018, the defendant is sentenced as provided in pages 1 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 1 of the indictment, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

It is further 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 change in the defendant's economic circumstances.

Signed this the 9th day of November, 2018.



SENIOR DISTRICT JUDGE SAM R. CUMMINGS
UNITED STATES DISTRICT COURT

DEFENDANT: EDDIE ESTUARDO GALINDO-MENDEZ
CASE NUMBER: 5:18-CR-00025-C(01)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 57 months as to count 1.

The defendant shall remain in the custody of the U.S. Marshal Service.

The Court recommends incarceration at FCI Lompoc, California.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: EDDIE ESTUARDO GALINDO-MENDEZ
CASE NUMBER: 5:18-CR-00025-C(01)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years.

The defendant shall report to the U.S. Probation Officer in a manner and frequency directed by the Court or Probation Officer in the district to which the defendant is released from the custody of the Federal Bureau of Prisons, or in which the defendant makes entry into the United States, within 72 hours of release or entry.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.
- ☐ The defendant shall participate in an approved program for domestic violence.
- ☐ The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: EDDIE ESTUARDO GALINDO-MENDEZ
CASE NUMBER: 5:18-CR-00025-C(01)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall abstain from the use of alcohol and all other intoxicants during the term of supervision.
2. The defendant shall not illegally re-enter the United States, if deported, removed, or allowed voluntary departure.
3. The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$10.00 per month.
4. The defendant must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
5. Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall pay restitution in the amount of \$2,553.00, payable to the U.S. District Clerk, 1205 Texas Avenue, Room 106, for disbursement to:

Attention: Greg Houlette
Happy State Bank
701 South Taylor
LB 120, Loss Account
Amarillo, Texas 79101

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$50.00 per month until the restitution is paid in full.

6. The defendant shall refrain from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

DEFENDANT: EDDIE ESTUARDO GALINDO-MENDEZ
CASE NUMBER: 5:18-CR-00025-C(01)

RESTITUTION

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall immediately pay restitution in the amount of \$2,553.00, payable to the U.S. District Clerk, 1205 Texas Avenue, Room 209, Lubbock, TX 79401, for disbursement to:

Restitution of \$2,553.00 to:

HAPPY STATE BANK

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$50.00 per month until the restitution is paid in full.

The Court determines that the defendant does not have the ability to pay interest and therefore waives the interest requirement pursuant to 18 U.S.C. § 3612(f)(3).

APPENDIX B

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

No. 18-11516
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 26, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDDIE ESTUARDO GALINDO-MENDEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:18-CR-25-1

Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:*

Eddie Estuardo Galindo-Mendez appeals the sentence imposed for his bank robbery conviction under 18 U.S.C. § 2113(a). For the first time on appeal, Galindo-Mendez argues that his placement of an apparent pipe bomb during the robbery did not justify an enhancement for a dangerous weapon that was “otherwise used” under U.S.S.G. § 2B3.1(b)(2)(D).

* 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.

No. 18-11516

We review Galindo-Mendez’s unpreserved argument under the plain error standard. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). To establish plain error, Galindo-Mendez must show (1) a forfeited error (2) that is clear or obvious and (3) that affects his substantial rights. *See Id.* If he makes such a showing, we have the discretion to correct the error but only if (4) it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *See id.*

Section 2B3.1(b)(2) provides for a four-level increase if a “dangerous weapon was otherwise used.” “Otherwise used” . . . means that the conduct did not amount to the discharge of a firearm but was more than brandishing, displaying, or possessing a firearm or other dangerous weapon.” U.S.S.G. § 1B1.1, comment. (n.1(I)); *see* § 2B3.1, comment. (n.1). In light of the location of the apparent bomb and the nature of the specific threat indicated by the note that Galindo-Mendez handed to the bank teller, he has not shown clear or obvious error in the district court’s application of the enhancement under § 2B3.1(b)(2)(D). *See Puckett*, 556 U.S. at 135; *United States v. Dunigan*, 555 F.3d 501, 505-06 (5th Cir. 2009).

AFFIRMED.