

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ANILOU BELTRAN DEL RIO,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

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Northern District of Texas

APPENDIX A

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

United States Court of Appeals
Fifth Circuit

FILED

July 7, 2020

Lyle W. Cayce
Clerk

No. 19-10915
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANILOU BELTRAN DEL RIO,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:11-CR-96-49

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Anilou Beltran Del Rio, previously convicted of conspiracy to possess with intent to distribute a controlled substance, appeals the mandatory revocation of her supervised release pursuant to 18 U.S.C. § 3583(g) and her 24-month revocation sentence. We affirm.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

First, Del Rio argues that her sentence should be vacated because the district court erroneously believed that the advisory policy statement range was 24 to 30 months of imprisonment. Alternatively, she argues that the district court plainly and reversibly erred by failing to state its calculations for the advisory range under U.S.S.G. § 7B1.4, p.s. The record refutes these arguments. Specifically, the revocation hearing colloquy reflects the district court's understanding that the advisory sentencing range was 4 to 10 months. Likewise, the district court's statement of reasons (issued after a limited remand to correct a clerical error) states explicitly that the court applied a policy statement range of 4 to 10 months and sets forth its rationale for the above-range sentence. Del Rio has not shown that the 24-month revocation sentence is plainly unreasonable. *See United States v. Sanchez*, 900 F.3d 678, 682 (5th Cir. 2018).

Next, Del Rio argues that § 3583(g) is unconstitutional in light of *United States v. Haymond*, 139 S. Ct. 2369 (2019), because it does not require a jury determination of guilt beyond a reasonable doubt. As she concedes, review of this unpreserved issue is for plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). To prevail on plain error review, she must show a forfeited error that is clear or obvious and that affects her substantial rights. *See id.* If she makes such a showing, this court has the discretion to correct the error and should do so “only if the error seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks, citation, and alteration omitted).

The Supreme Court's decision in *Haymond* addressed the constitutionality of § 3583(k), and the plurality opinion specifically declined to “express a view on the mandatory revocation provision for certain drug and gun violations in § 3583(g).” *Haymond*, 139 S. Ct. at 2382 n.7 (plurality

opinion). The application of § 3583(g) was not plain error. *See United States v. Badgett*, 957 F.3d 536, 539-41 (5th Cir. 2020).

AFFIRMED.

APPENDIX B

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

v.

ANILOU BELTRAN DEL RIO

JUDGMENT IN A CRIMINAL CASE for revocation of supervised release

Case number: 4:11-CR-096-Y (49)
John P. Bradford, assistant U.S. attorney
George H. Lancaster Jr., attorney for the defendant

On August 8, 2019, a hearing was held, at which time the Court determined that the defendant, Anilou Beltran Del Rio, had violated the conditions of supervised release. Accordingly, the defendant is adjudged guilty of such violations, which involve the following conditions:

CONDITION	NATURE OF VIOLATION	VIOLATION CONCLUDED
Standard condition no. 7 and additional condition	Using and possessing methamphetamine and cocaine	April 2019, May 2019
Addition condition	Using and possessing marijuana	December 2018, January 2019, March 2019
Additional condition	Failure to submit urine specimen at probation office, Ft. Worth, Texas and at Helping Open People's Eyes, Ft. Worth, Texas	May 2019
Additional condition	Failure to report for counseling at Helping Open People's Eyes, Ft. Worth, Texas	May 2019, June 2019
Standard condition no. 9	Associating with known felon	May 2019

The defendant is sentenced as provided in pages one through two of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant shall notify the United States attorney for this district within thirty (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.

Sentence imposed August 8, 2019.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed August 9, 2019.

IMPRISONMENT

The defendant, Anilou Beltran Del Rio, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 24 months, pursuant to USSG § 7B1.4(a) and (a)(2), p.s.

The defendant is remanded to the custody of the United States marshal.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 24 months. While on supervised release, the defendant shall comply with the same conditions as presently in force under the Judgment in a Criminal Case imposed in case no. 4:11-CR-096-Y on February 11, 2013, plus any subsequent modifications thereof.

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 marshal