

APPENDIX A

United States v. Martinez

United States Court of Appeals for the Fifth Circuit

August 25, 2020, Filed

No. 19-11366 Summary Calendar

Reporter

818 Fed. Appx. 371 *; 2020 U.S. App. LEXIS 27179 **; 2020 WL 5049076

UNITED STATES OF AMERICA, Plaintiff—Appellee,
versus JASON ALFRED MARTINEZ, Defendant—
Appellant.

Notice: PLEASE REFER TO *FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1* GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Prior History: [**1] Appeal from the United States District Court for the Northern District of Texas. USDC No. 4:11-CR-192-3.

United States v. Coronado, 2012 U.S. Dist. LEXIS 8905 (N.D. Tex., Jan. 11, 2012)

Disposition: AFFIRMED.

Counsel: For United States of America, Plaintiff - Appellee: Leigha Amy Simonton, U.S. Attorney's Office Northern District of Texas, Dallas, TX.

For Jason Alfred Martinez, Defendant - Appellant: Brandon Elliott Beck, Jaidee Serrano, Federal Public Defender's Office, Fort Worth, TX.

Judges: Before HAYNES, WILLETT, and HO, Circuit Judges.

Opinion

[*371] PER CURIAM: *

Jason Alfred Martinez appeals the 12-month sentence imposed following the revocation of his supervised release. He contends that the district court's upward variance amounted to a clear error of judgment in balancing the sentencing factors because it failed to give adequate weight to the fact that Martinez primarily complied with his supervised release conditions prior to his mother's death, which affected him significantly.

We review a revocation sentence to determine whether it is "plainly unreasonable." See *United States v. Miller*, 634 F.3d 841, 842-43 (5th Cir. 2011). Martinez must show that the sentence was not only an abuse of discretion but also that "the error was obvious under existing law." *United States v. Winding*, 817 F.3d 910, 913 (5th Cir. 2016) (internal quotation marks and citation omitted). A revocation sentence is substantively unreasonable where the [**2] district court did not account for a sentencing factor that should have received [*372] significant weight, gave significant weight to an irrelevant or improper factor, or made a clear error in judgment when balancing the sentencing factors. *United States v. Warren*, 720 F.3d 321, 332 (5th Cir. 2013).

At the revocation hearing, the district court considered the policy-statement range, stated that the sentence was based on the need for deterrence and to address the violation conduct, and, as Martinez admits, directly addressed his mitigation argument. In light of Martinez's multiple violations of his supervised release conditions, it found that a sentence two-months above the advisory range was necessary. Martinez fails to show that the district court made a clear error in

* 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*.

judgment when balancing the sentencing factors. See [Warren, 720 F.3d at 332](#); [Miller, 634 F.3d at 843](#).

AFFIRMED.

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APPENDIX B

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

v.

JASON ALFRED MARTINEZ

**JUDGMENT IN A CRIMINAL CASE
for revocation of supervised release**

Case number: 4:11-CR-192-Y (3)
Robert J. Boudreau, assistant U.S. attorney
Jaidee Serrano, attorney for the defendant

On December 17, 2019, a hearing was held, at which time the Court determined that the defendant, Jason Alfred Martinez, had violated his 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 conditions	Using and possessing marijuana, opiates, methamphetamine, Gabapentin, and alcohol	May 2019; July 2019
Addition condition	Failure to submit urine specimens at Helping Open Peoples Eyes (HOPE-FTW)	November 2016; December 2016; April 2017; May 2019; June 2019; July 2019; August 2019
Additional condition	Failure to attend counseling at HOPE-FTW	May 2019; July 2019
Standard conditions 2 and 3	Failure to report to the probation office and to report to the probation officer by telephone weekly	June 2019; July 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 December 17, 2019.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed December 19, 2019.

IMPRISONMENT

The defendant, Jason Alfred Martinez, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 12 months.

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

SUPERVISED RELEASE

Upon the defendant's release from the custody of the Federal Bureau of Prisons, he shall be placed on supervised release for a term of 6 months under the same conditions as set out in the Judgment in a Criminal Case entered on July 31, 2012 in case no. 4:11-CR-192-Y(3).

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