

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOSEPH MARTINEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Kevin Joel Page

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Appendix A Opinion of Fifth Circuit, CA No. 21-10715, *United States v. Martinez*, No. 21-10715, 2022 WL 118965 (5th Cir. January 12, 2022)(unpublished).

Appendix B Revocation Judgment and Sentence of the United States District Court for the Northern District of Texas, entered July 16, 2021. *United States v. Martinez*, Dist. Court 3:07-CR-00095-N-1.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

No. 21-10715
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSEPH MARTINEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:07-CR-95-1

Before WIENER, DENNIS, and HAYNES, *Circuit Judges.*

PER CURIAM:*

Joseph Martinez appeals the 24-month prison term imposed upon the revocation of his supervised release. He concedes that the district court provided adequate reasons to support the prison term but asserts that the court was further obligated under *Rita v. United States*, 551 U.S. 338 (2007),

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-10715

to specifically address his nonfrivolous arguments for a sentence of time served. We review this forfeited objection for plain error. *See United States v. Coto-Mendoza*, 986 F.3d 583, 585-86 (5th Cir.), *cert. denied*, 142 S. Ct. 207 (2021).

The record as a whole reflects that the district court considered Martinez's arguments concerning the passage of time between his supervised release violations and the revocation proceeding, the time he served in state prison in the interim, his state parole supervision, and his personal circumstances. The court's stated explanation for the within-guidelines sentence provided a reasoned basis for it. Accordingly, the court did not err by failing to reference each of Martinez's arguments. *See Rita*, 551 U.S. at 343-45, 356, 358-59; *Coto-Mendoza*, 986 F.3d at 584, 586-87 & nn.4-6; *United States v. Becerril-Pena*, 714 F.3d 347, 351-52 (5th Cir. 2013). The Government's motion for summary affirmance is DENIED. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). In the interest of judicial economy, the alternative motion for an extension of time to file a brief on the merits is DENIED as unnecessary. The judgment of the district court is AFFIRMED.

APPENDIX B

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.

JOSEPH MARTINEZ

Case Number: **3:07-CR-00095-N(1)**

USM Number: **36245-177**

Marti Rachel Morgan

Defendant's Attorney

THE DEFENDANT:

<input checked="" type="checkbox"/>	admitted guilt to violation of condition(s)	of the term of supervision.
<input type="checkbox"/>	was found in violation of condition(s)	after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
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“See Violation Order”

The defendant is sentenced as provided in pages 2 through 3 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.

Last Four Digits of Defendant's Soc. Sec. 6776

Defendant's Year of Birth: 1987

City and State of Defendant's Residence:
Dallas, Texas

JULY 12, 2021

Date of Imposition of Judgment

Signature of Judge

DAVID C. GODBEY, U.S. DISTRICT JUDGE

Name and Title of Judge

JULY 16, 2021

Date

DEFENDANT: JOSEPH MARTINEZ
CASE NUMBER: 3:07-CR-00095-N(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:

24 (Twenty-Four) months as to the violations to run consecutively to the sentence imposed by the state with no further supervision.

☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant be designated to FCI Seagoville, Texas, is possible.

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

at a.m. p.m. on

a.m. p.m. on

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:

Defendant delivered on to

at [REDACTED], with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL