

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

IN THE SUPREME COURT OF THE UNITED STATES

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JOSEPH MARTINEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPENDIX

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/s/ Kevin Joel Page

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## INDEX TO APPENDICES

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Fifth Circuit, CA No. 21-10715, *United States v. Martinez*, No. 21-10715, 2022 WL 118965 (5th Cir. January 12, 2022)(unpublished).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

United States Court of Appeals  
Fifth Circuit

**FILED**

January 12, 2022

Lyle W. Cayce  
Clerk

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No. 21-10715  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOSEPH MARTINEZ,

*Defendant—Appellant.*

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

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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),

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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

**Violation Number**

**Nature of Violation**

**Violation Ended**

“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

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

UNITED STATES MARSHAL

By  
DEPUTY UNITED STATES MARSHAL