

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JUAN JESUS BARRIETA-BARRERA,

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

JASON HAWKINS
Federal Public Defender
Northern District of Texas
TX State Bar No. 00759763
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886 Fax

KEVIN J. PAGE **
Assistant Federal Public Defender
Northern District of Texas
TX State Bar No. 24042691
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886

INDEX TO APPENDICES

Appendix A Opinion of Fifth Circuit, CA No. 21-10878, dated February 15, 2022,
United States v. Barrieta-Barrera, 2022 WL 458390 (5th Cir. Feb. 15, 2022)(unpublished).

Appendix B Judgment and Revocation of Supervised Release of the United States District Court for the Northern District of Texas, entered August 8, 2021.

United States v. Barrieta-Barrera, Dist. Court 4:18-CR-00194-Y.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 15, 2022

Lyle W. Cayce
Clerk

No. 21-10878
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JUAN JESUS BARRIETA-BARRERA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:18-CR-194-1

Before KING, COSTA, and HO, *Circuit Judges.*

PER CURIAM:*

Juan Jesus Barrieta-Barrera was sentenced to 12 months of imprisonment after he pleaded true to violating the terms of the supervised release imposed following his 2019 conviction for illegal reentry after deportation. On appeal, he challenges the constitutionality of 18 U.S.C.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

§ 3583(g), which mandates revocation of supervised release and a term of imprisonment for any offender who violates certain conditions of supervised release, including possessing a controlled substance.

Relying on *United States v. Haymond*, 139 S. Ct. 2369 (2019), Barrieta-Barrera contends that § 3583(g) is unconstitutional because it requires revocation of a term of supervised release and imposition of a term of imprisonment without affording the defendant the constitutionally guaranteed right to a jury trial. He concedes that his challenge is foreclosed under *United States v. Garner*, 969 F.3d 550 (5th Cir. 2020), *cert. denied*, 141 S. Ct. 1439 (2021), and raises the issue to preserve it for further review. The Government has filed an unopposed motion for summary affirmance and, alternatively, for an extension of time to file its brief.

In *Garner*, we rejected the argument that Barrieta-Barrera has advanced and held that § 3583(g) is not unconstitutional under *Haymond*. See *Garner*, 969 F.3d at 551-53. Thus, Barrieta-Barrera's sole argument on appeal is foreclosed. Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for extension of time is DENIED, and the judgment of the district court is AFFIRMED. See *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

APPENDIX B

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

v.

JUAN JESUS BARRIETA-BARRERA

JUDGMENT IN A CRIMINAL CASE for revocation of supervised release

Case number: 4:18-CR-194-Y (1)

M. Levi Thomas, assistant U.S. attorney

Michael A. Lehmann, attorney for the defendant

On August 24, 2021, a hearing was held, at which time the Court determined that the defendant, Juan Jesus Barrieta-Barrera, 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
Additional condition	Committing another federal, state, or local crime by illegally re-entering the United States	November 2020
Addition condition	Possessing a controlled substance, less than one gram, (methamphetamine) in violation of Texas Health and Safety Code § 481.115(B) and possessing drug paraphernalia in violation of Texas Penal Code Title § 481.125, a class C misdemeanor	November 2020

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 24, 2021.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed August 25, 2021.

Judgment in a Criminal Case
Defendant: Juan Jesus Barrieta-Barrera
Case Number: 4:18-CR-194-Y (1)

Judgment -- Page 2 of 2

IMPRISONMENT

The defendant, Juan Jesus Barrieta-Barrera, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 12 months pursuant to USSG § 7B1.4(a), p.s. This sentence shall run consecutively to the 21-month sentence imposed by this Court this same day, August 24, 2021, in case no. 4:21-CR-023-Y (1).

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

SUPERVISED RELEASE

No term of supervised release in this case is imposed upon the defendant's release from confinement.

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