

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

IN THE SUPREME COURT OF THE UNITED STATES

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SANTOS DAVID RAMIREZ-ORTEGA,

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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Appendix A Opinion of Fifth Circuit, CA No. 22-11053,  
*United States v. Ramirez-Ortega*, 2023 WL 5610165 (5<sup>th</sup> Cir. Aug. 30, 2023)(unpublished).

Appendix B Judgment and Sentence of the United States District Court  
for the Northern District of Texas, entered October 18, 2022.  
*United States v. Ramirez-Ortega*, Dist. Court 4:22-CR-075-Y(1).

## APPENDIX A

# United States Court of Appeals for the Fifth Circuit

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No. 22-11053  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit  
**FILED**  
August 30, 2023

UNITED STATES OF AMERICA,

Lyle W. Cayce  
Clerk

*Plaintiff—Appellee,*

*versus*

SANTOS DAVID RAMIREZ-ORTEGA,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:22-CR-75-1

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Before ELROD, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:\*

Santos David Ramirez-Ortega pled guilty to illegal reentry after deportation in violation of 8 U.S.C. § 1326(a). The district court sentenced Ramirez-Ortega to the within-guidelines, statutory maximum sentence of 24 months of imprisonment. On appeal, Ramirez-Ortega argues that the district court imposed a procedurally unreasonable sentence because it failed to

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\* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.*

No. 22-11053

respond to his nonfrivolous arguments for the requested bottom-of-guidelines sentence. Because Ramirez-Ortega did not object to his sentence on this basis, we review for plain error. *See United States v. Mondragon-Santiago*, 564 F.3d 357, 361 (5th Cir. 2009). To establish plain error, Ramirez-Ortega must show that the district court committed a clear or obvious error that affected his substantial rights. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). Even if Ramirez-Ortega is able to demonstrate that the error affected his substantial rights, we may exercise our discretion to correct the error only if that error “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings.” *Id.* (alteration in original) (quotation and citation omitted). To the extent Ramirez-Ortega encourages us to apply a different standard of review and reconsider our circuit precedent in light of *Holguin-Hernandez v. United States*, 140 S. Ct. 762 (2020), we decline that invitation, just as we did in *United States v. Coto-Mendoza*, 986 F.3d 583, 586 (5th Cir. 2021).

Ramirez-Ortega has failed to show that the district court committed significant procedural error, let alone show that any purported error affected his substantial rights. *See Coto-Mendoza*, 986 F.3d at 586–87; *Mondragon-Santiago*, 564 F.3d at 361, 364–65. The district court was not required to address Ramirez-Ortega’s arguments explicitly or to “provide specific reasons for rejecting [his] arguments.” *United States v. Becerril-Pena*, 714 F.3d 347, 351 (5th Cir. 2013); *see Coto-Mendoza*, 986 F.3d at 587. The record demonstrates that the district court considered the facts of the case and Ramirez-Ortega’s personal circumstances, properly addressed all relevant sentencing factors, and adequately articulated its “reasoned basis” for the within-guidelines sentence. *Rita v. United States*, 551 U.S. 338, 356 (2007); *see Coto-Mendoza*, 986 F.3d at 586–87.

AFFIRMED.

## APPENDIX B

**UNITED STATES DISTRICT COURT**  
NORTHERN DISTRICT OF TEXAS  
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

v.

SANTOS DAVID RAMIREZ-ORTEGA

Case Number: 4:22-CR-075-Y(1)

M. Levi Thomas, assistant U.S. attorney

Andrea G. Aldana, attorney for the defendant

On June 15, 2022, the defendant, Santos David Ramirez-Ortega, entered a plea of guilty to count one of the one-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:

<u>TITLE &amp; SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
8 U.S.C. § 1326(a)	Illegal Reentry After Deportation	November 20, 2020	1

The defendant is sentenced as provided in page two of this judgment. The sentence is imposed under Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission under Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the one-count indictment.

The defendant shall notify the United States attorney for this district within thirty 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 October 18, 2022.

  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE

Signed October 18, 2022.

## IMPRISONMENT

The defendant, Santos David Ramirez-Ortega, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 24 months on count one of the one-count indictment.

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 1 year on count one of the one-count indictment.

Under 18 U.S.C. § 3583(d), as a condition of supervised release upon the completion of the sentence of imprisonment, the defendant shall be surrendered by the Federal Bureau of Prisons to a duly authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.* As a condition of supervised release, if ordered deported, the defendant shall remain outside the United States.

In the event the defendant is not deported immediately upon release from imprisonment, or should the defendant ever be within the United States during any portion of the term of supervised release, the defendant shall also comply with the standard conditions recommended by the U.S. Sentencing Commission at §5D1.3(c) of the United States Sentencing Commission Guidelines Manual, and shall:

- not commit another federal, state, or local crime;
- not possess illegal controlled substances;
- not possess a firearm, destructive device, or other dangerous weapons;
- cooperate in the collection of DNA as directed by the probation officer, as authorized by the Justice for All Act of 2004;
- report in person to the probation office in the district to which the defendant is released from the custody of the Federal Bureau of Prisons, or in which the defendant makes entry into the United States, within 72 hours of release or entry;
- not illegally re-enter the United States, if deported, removed, or allowed voluntary departure;
- not have direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer. If you do have any direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours. Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places;
- not have unsupervised communication or contact with persons under the age of 18 without prior permission from the Court or probation officer; the defendant shall not be at or near places where minors congregate, nor shall the defendant create an opportunity for minors to congregate; the defendant shall not be employed or be a volunteer at places where minors congregate; and the defendant shall not date or befriend someone who has minors;

participate in a sex-offense-specific assessment, contributing to the costs of services rendered (copayment) at the rate of at least \$20 per month; and

participate in a sex offense-specific treatment program and follow the rules and regulations of that program, contributing to the costs of services rendered (copayment) at the rate of at least \$20 per month. The probation officer will supervise your participation in the program.

### **FINE/RESTITUTION**

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

### **RETURN**

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
United States marshal

BY \_\_\_\_\_  
deputy marshal