

No. _____

In the Supreme Court of the United States

RAUL HIRAM MATA-GARDEA,
PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT,

APPENDIX TO PETITION FOR CERTIORARI

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Case: 23-11244 Document: 99-1 Page: 1 Date Filed: 11/26/2024

United States Court of Appeals
for the Fifth Circuit

No. 23-11244
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 26, 2024
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

RAUL HIRAM MATA-GARDEA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CR-121-1

Before BARKSDALE, HAYNES, and WILSON, *Circuit Judges*.

PER CURIAM:*

Raul Hiram Mata-Gardea appeals the within-Guidelines 57-months' sentence imposed following his guilty-plea conviction for illegal reentry after removal, in violation of 8 U.S.C. § 1326(a), (b)(1). He maintains the court erred by: entering judgment under § 1326(b)(1); declining to depart downward based on his cultural assimilation within the United States; and

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

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assigning two criminal-history points, instead of one, to his 2014 conviction. Mata also contends the sentence was substantively unreasonable.

Although post-*Booker*, the Sentencing Guidelines are advisory only, the district court must avoid significant procedural error, such as improperly calculating the Guidelines sentencing range. *Gall v. United States*, 552 U.S. 38, 46, 51 (2007). If no such procedural error exists, a properly preserved objection to an ultimate sentence is reviewed for substantive reasonableness under an abuse-of-discretion standard. *Id.* at 51; *United States v. Delgado-Martinez*, 564 F.3d 750, 751–53 (5th Cir. 2009). In that respect, for issues preserved in district court, its application of the Guidelines is reviewed *de novo*; its factual findings, only for clear error. *E.g.*, *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008).

Mata contends he was improperly sentenced under § 1326(b)(1) because the prior felony conviction used to apply that enhancement provision was an element of the offense that had to be either alleged in the indictment and proved beyond a reasonable doubt or admitted by him. Although he correctly concedes his contention is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), he presents the issue to preserve it for possible further review. (Subsequent Supreme Court decisions such as *Alleyne v. United States*, 570 U.S. 99 (2013), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000), did not overrule *Almendarez-Torres*. *E.g.*, *United States v. Pervis*, 937 F.3d 546, 553–54 (5th Cir. 2019) (discussing precedent preserving *Almendarez-Torres*).)

Next, Mata asserts that the district court reversibly erred in denying his motion for a downward departure under U.S.S.G. § 2L1.2 cmt. n.8, based on cultural assimilation. The court denied the motion, finding that Mata’s commission of several felony offenses after illegally reentering this Country indicated a lack of assimilation. This was a proper factor for consideration.

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See U.S.S.G. § 2L1.2 cmt. n.8 (whether defendant engaged in additional criminal activity after reentry is relevant factor in determining whether downward departure is appropriate). Because the court’s denial of relief was discretionary and not the result of a mistaken belief that it had no authority to depart downward, our court lacks jurisdiction to review the decision. *E.g., United States v. Tuma*, 738 F.3d 681, 691 (5th Cir. 2013).

Mata also maintains his within-Guidelines sentence was substantively unreasonable because the court gave too much weight to his prior state conviction for being a felon in possession of a firearm. The parties disagree whether this issue was properly preserved by Mata’s request for a 48-month sentence. We need not resolve the standard-of-review question because the contention fails under either standard. *United States v. Holguin-Hernandez*, 955 F.3d 519, 520 n.1 (5th Cir. 2020) (unnecessary to determine preservation when issue would fail under plain-error or abuse-of-discretion standard). The sentence imposed was presumptively reasonable, and Mata has not rebutted that presumption. *E.g., United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009) (noting our “court applies a rebuttable presumption of reasonableness to a properly calculated, within-[G]uidelines sentence”).

Finally, Mata asserts for the first time on appeal that the district court erred in assigning two criminal-history points, rather than one, to his 2014 Texas conviction for possession of a controlled substance. Because Mata (as he concedes) did not raise this issue in district court, review is only for plain error. *E.g., United States v. Broussard*, 669 F.3d 537, 546 (5th Cir. 2012). Under that standard, Mata must show a forfeited plain error (clear-or-obvious error, rather than one subject to reasonable dispute) that affected his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes that showing, we have the discretion to correct the reversible plain error, but generally should do so only if it “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings”. *Id.* (citation omitted).

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The record, as supplemented, shows Mata was sentenced to 60 days in the Tarrant County Jail for the 2014 offense and received at least three days of credit for time served toward that sentence. It also shows that he was ordered to participate in a labor detail and that he completed his labor-detail service. In the light of the whole record, it is not clear or obvious that the district court erred in assigning two criminal history points to this prior conviction under U.S.S.G. § 4A1.1(b) rather than one point under § 4A1.1(c). *See* U.S.S.G. §§ 4A1.1, 4A1.2(b)(1) & cmt. n.2; *United States v. Jones*, 88 F.4th 571, 573 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 1081 (2024); *United States v. Carlile*, 884 F.3d 554, 557–58 (5th Cir. 2018).

In the alternative, and as he concedes, the one point makes no difference to Mata’s advisory Guidelines sentencing range; and he has not asserted that it affects the district court’s choice of sentence. Therefore, he has not shown the requisite effect on his substantial rights. *E.g.*, *United States v. King*, 979 F.3d 1075, 1081 (5th Cir. 2020) (“[W]here a sentencing court makes an error in calculating the Guidelines range that does not have an effect on the ultimate Guidelines range that is applied, the error will be harmless unless the defendant can show that the error somehow affected the ultimate sentence that was imposed.”); *United States v. Davis*, 602 F.3d 643, 647 (5th Cir. 2010).

AFFIRMED.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:23-CR-00121-Y
)
Government,) FORT WORTH, TEXAS
)
VS.) DECEMBER 5, 2023
)
RAUL HIRAM MATA-GARDEA,)
)
Defendant.) 10:03 A.M.

VOLUME 1 OF 1
TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE TERRY R. MEANS
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S:

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The above styled and numbered cause was reported by
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1 DECEMBER 5, 2023

2 oOo

3 P R O C E E D I N G S

4 THE COURT SECURITY OFFICER: Hear ye, hear ye,
5 hear ye, the United States District Court for the Northern
6 District of Texas at Fort Worth is now in session. The
7 Honorable Terry R. Means presiding. Let us pray. God bless
8 these United States and this honorable court. Amen.

9 THE COURT: Let's be seated.

10 We have a sentencing docket this morning. I am
11 without my courtroom deputy, so I will be doing both
12 functions, so you will have to bear with me.

13 First on the docket is the sentencing of Raul
14 Hiram Mata-Gardea in Case No. 4:23-CR-121-Y.

15 Are the parties ready to proceed?

16 MR. THOMAS: Levi Thomas on behalf of the United
17 States, your Honor, and I am ready.

18 MS. ALDANA: Andrea Aldana on behalf of Mr. Mata,
19 your Honor, and we are ready to proceed.

20 THE COURT: Thank you, ma'am.

21 Thank you, sir.

22 Mr. Mata, please acknowledge your presence in
23 court by stating your full name.

24 THE DEFENDANT: Raul Hiram Mata-Gardea.

25 THE COURT: Mr. Mata, you appeared before

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1 Magistrate Judge Hal R. Ray on July 25, 2023, at which time
2 you entered a plea of guilty to Count I of the indictment
3 charging you with illegal reentry after deportation in
4 violation of 8 United States Code, Section 1326(a) and
5 1326(b)1.

6 On that date, Judge Ray found that your plea of
7 guilty was a knowing and voluntary plea supported by an
8 independent basis in fact containing each of the essential
9 elements of that offense.

10 You told him at that time that you understood the
11 elements of the offense, agreed to the accuracy of the
12 factual resume, and admitted that you committed all
13 essential elements of the offense.

14 Accordingly, on August 9, 2023, I entered an order
15 accepting your plea and adjudging you guilty of the crime
16 alleged in the indictment against you.

17 Ms. Aldana, did you and your client receive in a
18 timely manner a copy of the presentence report and the
19 addendum to the report?

20 MS. ALDANA: We did, your Honor.

21 THE COURT: Did you have an opportunity to review
22 those carefully with Mr. Mata?

23 MS. ALDANA: I have, your Honor.

24 THE COURT: Did the government receive those
25 timely?

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1 MR. THOMAS: Yes, your Honor.

2 THE COURT: Then I will now notify the parties of
3 my tentative findings as to the defendant's objections to
4 the presentence report and the disposition of the
5 defendant's motion for downward departure.

6 The defendant's sole objection is overruled for
7 being foreclosed by Supreme Court precedent. All of
8 defendant's clarifications have been accepted by the
9 probation officer and now by the Court.

10 The defendant's motion for downward departure
11 should be denied.

12 The defendant has made it difficult for the Court
13 to find him assimilated in his new country of residence when
14 he has committed four separate felonies here between 2014
15 and 2022.

16 Being illegally present and committing felony
17 offenses does not imply cultural assimilation. If anything,
18 it implies the opposite. Nevertheless -- I can't read my
19 own writing -- certain of the guideline factors for finding
20 cultural assimilation are present here. So the Court will
21 be able to reflect these through its within-the-guideline
22 sentence.

23 Does that make sense?

24 MS. ALDANA: Yes, your Honor.

25 THE COURT: Okay. That's the rulings of the

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1 Court. Are there objections to the tentative findings of
2 the Court?

3 MS. ALDANA: As it relates to the Amador-Torres
4 objections, no, your Honor, but we will present additional
5 information in consideration of the sentencing.

6 THE COURT: Okay. Thank you.

7 Then I adopt as my final findings of fact the
8 statements of fact made in the presentence report, subject
9 to and including changes and qualifications made by the
10 addendum.

11 The defendant's motion for downward departure is
12 finally denied.

13 There being no objections to the probation
14 officer's conclusions set forth in the presentence report as
15 to the appropriate guideline calculations, I adopt those
16 conclusions and determine that the appropriate guideline
17 calculations are: Total offense level 21; Criminal History
18 Category IV; imprisonment range of 57 to 71 months;
19 supervised release range, one to three years; and a fine
20 range of 15,000, to \$150,000, plus the costs of imprisonment
21 and supervision.

22 I've received several letters on behalf of
23 Mr. Mata, and they do play a role in my thinking as to the
24 appropriate sentence in this case.

25 In addition to that, Ms. Aldana, do you wish to

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1 make any remarks on Mr. Mata's behalf?

2 MS. ALDANA: Yes, your Honor.

3 THE COURT: Go ahead.

4 MS. ALDANA: Thank you, your Honor. With the
5 Court's finding in mind, I still want to add some
6 information for the Court's consideration in regards to
7 Mr. Mata's personal history.

8 As we spoke in our memorandum --

9 THE COURT: Is any of it new, or has it already
10 been put forward in writing?

11 MS. ALDANA: I do have some new information, your
12 Honor, yes.

13 THE COURT: Okay.

14 MS. ALDANA: Thank you.

15 THE COURT: I wouldn't stop you from reiterating
16 something, but I --

17 MS. ALDANA: Yes.

18 THE COURT: -- I didn't want to hear -- have a
19 treatise.

20 MS. ALDANA: No, a summary, if you will.

21 THE COURT: All right. Thank you.

22 MS. ALDANA: He was brought to this country at a
23 very young age, at three years old, for his parents' dreams
24 of a better life for their kids. They come from very humble
25 backgrounds.

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1 In good humor, he calls himself the black sheep of
2 the family, because of his criminal history.

3 THE COURT: I once called my daughter that, and I
4 never got forgiven for it.

5 MS. ALDANA: Well, to each their own.

6 His sister manages a fast-food restaurant. His
7 brother is a foreman at a pipeline company. But he,
8 himself, he's still a skilled mechanic.

9 He learned the trade from his father at a young
10 age, supporting himself in Mexico with that trade, and those
11 skills go beyond oil changes or tune-ups or the things that
12 I go to a mechanic for. He can do custom-car builds. And
13 that takes creativity and that takes talent, your Honor.

14 When he was deported to Mexico, he lived for years
15 with his partner Fabiola. He made his life there, and his
16 intention was to stay there.

17 The big reason for these back-to-back returns,
18 your Honor, is that his mother got really sick. She has
19 heart failure. And as they progressed in the diagnosis of
20 her heart issues, they're finding other, lots of little
21 problems with her, including most recently nodules in her
22 thyroid.

23 He came back to work to help support his mom's
24 medical treatment and the surgery that she's undergone.
25 After his deportation though, Mr. Mata knows, his mother is

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1 not going to magically get better. His parents are going to
2 continue to age. His father can become sick and they may
3 very well pass, but he knows and accepts the importance of
4 staying in Mexico. His presence -- obviously because his
5 presence is unlawful, but also because incarceration is not
6 in line with his personal goals. And his incarceration
7 causes way more stress to his mom than the distance does.

8 We will persist in asking for a sentence below the
9 guidelines and a downward variance. We don't disagree that
10 his guidelines are accurately calculated, but he is
11 penalized for everything twice over.

12 All of his offenses are counted in his criminal
13 history score and his criminal history is merely mirrored in
14 the guideline calculations, which is sometimes a matter of
15 timing, because we have seen cases where folks technically
16 have a felony post-deportation, but it's not counted in
17 their offense guidelines.

18 So we would argue that it would still be
19 reasonable to look at the guideline range just next to his,
20 the 46 to 57 months, because it still captures the
21 seriousness of the offense, it will deter recidivism, but it
22 takes into consideration his personal history and prevents
23 sentencing disparities.

24 In our request for a sentence below the
25 guidelines, we will add that his offense history, Mr. Mata

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1 has always been very honest with law enforcement. All of
2 his convictions come from either a traffic stop or one was
3 border patrol, but he's always been super honest and
4 cooperative with the officers, leading to searches, leading
5 to statements that have been included in the PSR.

6 I will add that there's no DUIs, no domestic, or
7 violent history. In the landscape of offenses, his
8 dangerousness and risk to the public could be considered
9 less than the average 1326 case that we often see.

10 I will note for the Court that Mr. Mata has had an
11 ICE detainer in place since June 6th, 2022. So about 18
12 months. I'm not sure if this was on purpose to be more
13 punitive, but Mr. Mata has completed his state sentence and
14 he was about to be deported before this federal charge was
15 entered. We would ask the Court to consider that time in
16 his sentence.

17 So considering the specific facts of this case, we
18 would ask the Court to sentence Mr. Mata to a sentence of 48
19 months, four years. We believe that would be a just and
20 sufficient sentence that would punish him, deter him,
21 protect the public.

22 I would like to add that he has some family
23 members here, your Honor, in support. He's written a
24 statement and put some thought into his statement that he
25 would like to say for the Court.

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1 THE COURT: All right. Mr. Mata, do you wish to
2 speak on your own behalf or present any information in
3 mitigation of your sentence?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: If you're going to read, that's just
6 fine. Just go slow enough that I can follow and my court
7 reporter can take it down.

8 THE DEFENDANT: Good morning, your Honor.

9 THE COURT: Morning, sir. Good morning, sir.

10 THE DEFENDANT: I'm grateful for the opportunity
11 to speak on my behalf. I stand before you because I have
12 done wrong. When news came to me about my mother's
13 deterioration of health, I rushed into action and crossed
14 into the United States illegally.

15 THE COURT: Let me ask you about your mother. Has
16 she been diagnosed with thyroid cancer?

17 Because I had a nodule that was taken out, and it
18 wasn't cancer, so --

19 THE DEFENDANT: We have prayed for word, a letter
20 from the doctor saying what was going on with her, with her
21 health. I know she has, like her blood flow is not going
22 right, so that's why her legs -- that's the reason she's not
23 here right now is she can't walk either as well.

24 So I decided to stay so I could help around the
25 house while also taking care of my mother and ease the

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1 tension on my father by helping around the shop.

2 My parents taught me good moral values and to be a
3 good person. And that's something I am very proud and
4 thankful for is them, it's my parents. But that doesn't
5 change for the crimes I committed in life, but me knowing
6 what is wrong and what is right.

7 But being incarcerated made me think about every
8 crime I have done in the past to not doing those things
9 again and as well to think about the right thing I've been
10 through. I've been taught by my parents like to be a good
11 father, son, brother, and to society.

12 So I only ask to do my time at an institution
13 close enough for my elderly parents to visit and a lenient
14 sentence so I can reconnect with my family back in Mexico
15 and start over with my life. Thank you, and God bless you,
16 your Honor.

17 THE COURT: Thank you, sir.

18 Does the government wish to be heard?

19 MR. THOMAS: Your Honor, the government would just
20 state I'm not opposed to a sentence at the bottom of the
21 guideline range or maybe even slightly below for the reasons
22 stated by defense.

23 He does have a prior illegal reentry conviction in
24 2022, which is not long ago, from the Western District; he
25 got 10 months for that. So even slightly below the

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1 guideline range would be significantly higher than that for
2 deterrence purposes.

3 THE COURT: Thank you, sir.

4 I will now state the sentence determined after
5 consideration of all the factors set out in Title 18 United
6 States Code, Section 3553(a), including especially the
7 advisory sentencing guidelines issued by the Sentencing
8 Commission, and the conduct admitted by Mr. Mata in his
9 factual resume.

10 The attorneys will have a final chance to make
11 legal objections before sentence is finally imposed.

12 It is the judgment of the Court that the
13 defendant, Raul Hiram Mata-Gardea, in Case No.
14 4:23-CR-121-Y, be committed to the custody of the Federal
15 Bureau of Prisons for a period of 57 months.

16 The Court does not order a fine or costs of
17 incarceration, because Mr. Mata does not have the financial
18 resources or future earning capacity to pay a fine or costs
19 of incarceration.

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

22 Upon release from imprisonment, Mr. Mata shall be
23 on supervised release for a term of three years.

24 Under 18 United States Code, Section 3583(d), as a
25 condition of supervised release, upon the completion of the

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1 sentence of imprisonment, Mr. Mata shall be surrendered by
2 the Bureau of Prisons to a duly authorized immigration
3 official for deportation in accordance with the established
4 procedures provided by the Immigration and Nationality Act.

5 As a condition of supervised release, if ordered
6 deported, he shall remain outside the United States. In the
7 event that Mr. Mata is not deported immediately upon release
8 from imprisonment, or should he ever be within the United
9 States during a portion of the term of supervised release,
10 he shall comply with the standard conditions recommended by
11 the United States Sentencing Commission at Section 5D1.3(c)
12 of the Sentencing Commission guidelines and comply with
13 certain other conditions that have been set out in a
14 separate order, signed by me this day and offered to
15 Mr. Mata for his review and signature.

16 He has now returned that order to the Court with
17 his signature, indicating his receipt of those other
18 conditions, his understanding of them, his waiver of having
19 them read here in open court, and his agreement to be bound
20 by them and subject to revocation for any violation of them.

21 In addition, Mr. Mata is ordered to pay a special
22 assessment in the amount of \$100.

23 A sentence of 57 months is sufficient, but not
24 greater than necessary, to comply with the purposes set
25 forth in paragraph two of Section 3553(a). That is, reflect

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1 the seriousness of and provide just punishment for the
2 offense, promote respect for the law, afford adequate
3 deterrence of criminal conduct, and protect the public from
4 further crimes of the defendant.

5 The Court has imposed a term of supervised release
6 because that will provide an added layer of deterrence and
7 protection based on the facts and circumstances of this
8 case.

9 I have now stated the sentence and the reasons
10 therefor. I call upon the parties to indicate any legal
11 reason why sentence may not be imposed as stated.

12 MR. THOMAS: Nothing from the government, your
13 Honor.

14 MS. ALDANA: No, your Honor.

15 THE COURT: Sentence is then imposed as stated.

16 Mr. Mata, you have the right to appeal the
17 sentence that I have imposed. You also have the right to
18 apply for leave to appeal in forma pauperis, if you are
19 unable to pay the cost of an appeal.

20 You've returned to me this morning an instrument
21 entitled notice of right to appeal sentence that you have
22 signed. Please understand that this is the Court's notice
23 to you that you have the right to appeal. It is not your
24 notice to the Court that you are, in fact, appealing.

25 And if you decide to appeal, you must do so within

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1 14 days, in writing, filed with the Court. Ms. Aldana will
2 assist you in that if you ask her to.

3 Do you have any questions, sir?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: You are remanded to the custody of the
6 United States Marshal. Good luck to you, sir.

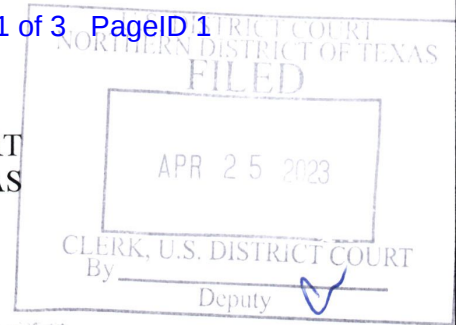
7 (The proceedings concluded at 10:19 a.m.)
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ORIGINAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

No.

RAUL HIRAM MATA-GARDEA (01)

4:23-cr-121-Y

INDICTMENT

The Grand Jury Charges:

Count OneIllegal Reentry After Deportation
(Violation of 8 U.S.C. § 1326(a) and (b)(1))

On or about June 6, 2022, in the Fort Worth Division of the Northern District of Texas, defendant **Raul Hiram Mata-Gardea**, an alien, was found in the United States having previously been deported and removed from the United States on or about October 15, 2020, and the defendant had not received the consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security, to reapply for admission to the United States.

In violation of 8 U.S.C. § 1326(a) and (b)(1).

A TRUE BILL



FOREPERSON

LEIGHA SIMONTON
UNITED STATES ATTORNEY



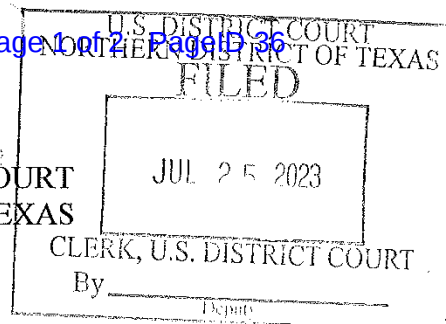
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APPENDIX D

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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



UNITED STATES OF AMERICA

v.

No. 4:23-CR-121-Y

RAUL HIRAM MATA-GARDEA (01)

FACTUAL RESUME

I. Plea:

Count One: Illegal Reentry after Deportation, in violation of 8 U.S.C. § 1326(a) & (b)(1).

II. Maximum Penalties:

The maximum penalties the Court can impose include:

- a. a term of imprisonment of ten (10) years;
- b. a fine of \$250,000;
- c. a term of supervised release of three (3) years. If the defendant violates the conditions of supervised release, he could be imprisoned for an additional period of confinement;
- d. a mandatory special assessment of \$100; and
- e. pleading guilty may have consequences with respect to the defendant's immigration status, including removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including his attorney or the district court, can predict to a certainty the effect of his conviction on his status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequences include his automatic removal from the United States.

III. Essential Elements of the Offense:

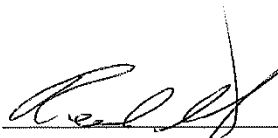
In order to establish the offense alleged in Count One, the government must prove the following elements beyond a reasonable doubt:

- First: That on or about the date alleged, the defendant was an alien;
Second: That the defendant was previously removed from the United States;
Third: That the defendant was found in the United States; and
Fourth: That the defendant had not received the express consent of either the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to the United States since the time of the defendant's previous removal.


IV. Stipulation of Facts:

Raul Hiram Mata-Gardea (Mata) is a citizen and national of Mexico, born in Delicias, Chihuahua, Mexico. On October 15, 2020, Mata was deported and removed to Mexico through El Paso, Texas. On June 6, 2022, Mata was encountered by immigration authorities at the Tarrant County Jail in Fort Worth, Texas, within the Federal Northern District of Texas. Mata had re-entered the United States illegally, and he had not applied for nor received permission from the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to the United States at any time after being deported.

SIGNED on this the 30 day of JUNE, 2023.



RAUL HIRAM MATA-GARDEA
Defendant



ANDREEA ALODANA
Attorney for Defendant

APPENDIX E

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: 4:23-CR-121-Y(1)

M. Levi Thomas, assistant U.S. attorney

RAUL HIRAM MATA-GARDEA

Andrea G. Aldana, attorney for the defendant

On July 25, 2023, the defendant, Raul Hiram Mata-Gardea, 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 & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
8 U.S.C. § 1326(a) and (b)(1)	Illegal Reentry After Deportation	June 6, 2022	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 December 5, 2023.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed December 11, 2023.

Judgment in a Criminal Case

Defendant: Raul Hiram Mata-Gardea

Case Number: 4:22-CR-121-Y(1)

Judgment -- Page 2 of 3

IMPRISONMENT

The defendant, Raul Hiram Mata-Gardea, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 57 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 3 years 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, while on supervised release, shall comply with the standard conditions recommended by the U.S. Sentencing Commission at §5D1.3(c) of the U.S. 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;

refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court;

participate in outpatient mental-health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered (copayment) at a rate of at least \$25 per month; and

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month.

Judgment in a Criminal Case
Defendant: Raul Hiram Mata-Gardea
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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:

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

United States marshal

BY _____
deputy marshal