

701 Fed.Appx. 391 (Mem)
 This case was not selected for
 publication in West's Federal Reporter.
 See Fed. Rule of Appellate Procedure 32.1
 generally governing citation of judicial decisions
 issued on or after Jan. 1, 2007. See also
 U.S.Ct. of App. 5th Cir. Rules 28.7 and 47.5.
 United States Court of Appeals,
 Fifth Circuit.

UNITED STATES of America, Plaintiff-Appellee

v.

Michael TAYLOR, Defendant-Appellant

No. 16-41388

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Summary Calendar

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Filed November 15, 2017

Appeal from the United States District Court for the
 Southern District of Texas, USDC No. 5:15-CR-1134-1

Attorneys and Law Firms

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 District of Texas, Houston, TX, for Defendant-Appellant

Before BENAVIDES, SOUTHWICK, and COSTA,
 Circuit Judges.

Opinion

PER CURIAM: *

Michael Taylor appeals his jury trial convictions and
 cumulative 180-month prison sentence for possessing
 with intent to distribute 1,000 kilograms or more of a
 mixture and substance containing a detectable amount of
 marijuana, *see* 21 U.S.C. § 841(a)(1), (b)(1)(A), and for
 possessing a firearm in furtherance of a drug trafficking
 *392 crime, *see* 18 U.S.C. § 924(c)(1)(A)(i). Additionally,

he challenges a special condition of supervised release. We
 affirm, but we modify the special condition of supervised
 release.

Reviewing for plain error, we reject Taylor's contention
 that the district court erred when charging the jury. *See*
 FED. R. CRIM. P. 30(d); FED. R. CRIM. P. 52(b);
Puckett v. United States, 556 U.S. 129, 136, 129 S.Ct. 1423,
 173 L.Ed.2d 266 (2009). Taylor points to no “precedent
 directly supporting” the contention that the district court
 lowered the Government's burden of proof for conviction
 by omitting the phrase *without hesitation* in its instruction
 about reasonable doubt, using the phrase *heavily in doubt*
 when remarking on the burden of proof in response to
 notes from the jury, or doing both these things. *See United*
States v. Miller, 406 F.3d 323, 330 (5th Cir. 2005). In
 no case cited by Taylor was an instruction found to be
 plainly erroneous because it omitted wording suggesting
 reasonable doubt was the kind of doubt that would make a
 person hesitate to act. Nor does Taylor cite any authority
 holding that a remark in response to a jury question
 referring to “heavily in doubt” creates error when the
 instructions repeatedly emphasize the government's heavy
 burden. At best, Taylor shows only that the question of
 error may be “subject to reasonable dispute.” *Puckett*, 556
 U.S. at 135, 129 S.Ct. 1423.

We reject also the contention that the written judgment's
 directive that Taylor participate in an addiction treatment
 program as instructed and deemed necessary by the
 probation officer creates ambiguity concerning the scope
 of the district court's delegation of sentencing authority.
 We premit the question of the standard of review
 for this claim, *see United States v. Rodriguez*, 523 F.3d
 519, 525 (5th Cir. 2008), as Taylor cannot prevail even
 under the lenient abuse of discretion standard, *see United*
States v. Henderson, 636 F.3d 713, 717 (5th Cir. 2011).
 Nothing in the transcript of the sentencing hearing
 indicates that the district court did not intend to impose
 a mandatory special condition concerning a substance
 addiction treatment program during Taylor's supervised
 release. To the contrary, the record shows that the
 district court recognized Taylor's special needs and the
 court's “core duty” to consider “appropriate treatment
 for prisoners.” *United States v. Guerra*, 856 F.3d 368, 369
 (5th Cir. 2017). In sum, we have no reason to believe
 that the district court did not intend “that treatment
 be mandatory,” with the probation officer to decide the
 details of Taylor's participation. *Guerra*, 856 F.3d at

370. But to dispel any doubt, we MODIFY the sentence to provide that participation in a substance addiction treatment program while Taylor is on supervised release is mandatory, with details of treatment to be supervised by the probation officer. *See id.*; 28 U.S.C. § 2106.

AFFIRMED as modified.

All Citations

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Footnotes

- * Pursuant to 5TH CIR. R. 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 CIR. R. 47.5.4.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-41388

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

MICHAEL TAYLOR,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas

ON PETITION FOR REHEARING

Before BENAVIDES, SOUTHWICK, and COSTA, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is *DENIED*

ENTERED FOR THE COURT:



UNITED STATES CIRCUIT JUDGE