

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MIGUEL ANGEL MACIAS-FUENTES,

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

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Appendix A Opinion of Fifth Circuit, *United States v. Macias-Fuentes*,
No. 25-10223, 2025 WL 2876798 (5th Cir. Oct. 9, 2025) (unpublished)

Appendix B Judgment and Sentence of the United States District Court
for the Northern District of Texas, entered January 16, 2025.
United States v. Macias-Fuentes, Dist. Court No. 4:24-CR-198-Y

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 25-10223
CONSOLIDATED WITH
No. 25-10226

United States Court of Appeals

Fifth Circuit

FILED

October 9, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MIGUEL ANGEL MACIAS-FUENTES,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC Nos. 4:13-CR-19-1, 4:24-CR-198-1

Before HIGGINBOTHAM, ENGELHARDT, and RAMIREZ, *Circuit Judges.*

PER CURIAM:*

Miguel Angel Macias-Fuentes pleaded guilty to illegal reentry and was sentenced to 60 months of imprisonment and three years of supervised release. In addition, the district court revoked his supervised release and

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

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sentenced him to a consecutive term of 12 months in prison. He now appeals, challenging only the 60-month sentence.

Specifically, Macias-Fuentes argues that the district court erred when it calculated the applicable departure range under U.S.S.G. § 4A1.3(a)(4)(A) as encompassing 60 months. As Macias-Fuentes concedes, our review is for plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

Where the district court elects to depart pursuant to § 4A1.3(a)(1), “it is to follow the method for calculating the extent of the departure set forth in §§ 4A1.3(a)(4)(A) and (B).” *United States v. Mejia-Huerta*, 480 F.3d 713, 723 (5th Cir. 2007). Although the court did not expressly state it was applying § 4A1.3(a)(4)(B) after departing to Criminal History Category VI, it concluded that a sentence of 60 months was warranted based on Macias-Fuentes’s extensive criminal history. *See United States v. Zuniga-Peralta*, 442 F.3d 345, 348 n.2 (5th Cir. 2006). Thus, any error was not clear or obvious. *See id.* But even if it were, any error did not affect his substantial rights given the district court’s detailed explanation of its reasons for selecting the 60-month sentence. *See United States v. Tapia*, 946 F.3d 729, 734 (5th Cir. 2020).

Macias-Fuentes also contends that the district court violated the Sixth Amendment when it statutorily enhanced his sentence based on the fact of a prior conviction that was never alleged in the indictment. He acknowledges that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but he raises the issue for potential further review. Because the issue is foreclosed, we reject Macias-Fuentes’s argument. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019).

Finally, he has abandoned any challenge to the revocation of his supervised release. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

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Accordingly, the judgments of the district court are AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

MIGUEL MACIAS-FUENTES

Case Number: 4:24-CR-198-Y(1)

Justin C. Beck, assistant U.S. attorney

Michael A. Lehmann, attorney for the defendant

On September 11, 2024, the defendant, Miguel Macias-Fuentes, 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)(2)	Illegal Reentry After Deportation	May 26, 2024	1

The defendant is sentenced as provided in pages two through three 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 January 14, 2025.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed January 16, 2025.

Judgment in a Criminal Case

Defendant: Miguel Macias-Fuentes

Case Number: 4:24-CR-198-Y(1)

Judgment -- Page 2 of 4

IMPRISONMENT

The defendant, Miguel Macias-Fuentes, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 60 months on count one of the one-count indictment. This sentence shall run consecutively to any future sentence that may be imposed in case no. 4:13-CR-019-Y(01), in the United States District Court for the Northern District of Texas, Fort Worth division.

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; 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.

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