

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41361
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EFRAIN JACOME-LOPEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-01-CR-747-ALL

December 16, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Efrain Jacome-Lopez (Jacome) appeals the sentence imposed following his guilty plea conviction of illegal entry in violation of 18 U.S.C. § 1325. Because Jacome did not object to his sentence in the district court, this court reviews for plain error. United States v. Rodriguez, 15 F.3d 408, 414 (5th Cir. 1994).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

In reply to the government's argument, Jacome asserts that the appeal is not moot. However, he has completed his term of incarceration and all that remains of his sentence is a term of supervised release; this court cannot shorten the term of supervised release to compensate for any excess prison time served. See 18 U.S.C. § 3624(e); United States v. Johnson, 529 U.S. 53, 54, 56-57 (2000). Additionally, supervised release is discretionary if the sentence was less than one year. Thus, the appeal is moot.

On the merits, Jacome argues that the district court committed plain error by considering his religious and political beliefs in imposing the sentence. Even if the appeal were not moot, Jacome has not established the criteria for plain error. See, e.g., United States v. Reyes, 300 F.3d 555, 558 (5th Cir. 2002).

AFFIRMED.