

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Degroate

United States v. Degroate · No. 18-2236-cr · Decided October 4, 2019

SUMMARY

The Second Circuit affirmed Lameik Degroate’s 18-month sentence imposed after revocation of supervised release. The court held that a supervisee has no right to present live mitigation witnesses at a revocation hearing, that the curfew condition did not unlawfully delegate judicial authority to the Probation Office, and that any improper lockdown violations did not affect the outcome. The court also rejected Degroate’s challenge to the substantive reasonableness of his above-guideline sentence.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	José A. Cabranes, Circuit Judge; Jon O. Newman, Circuit Judge; Dennis Jacobs Lynch, Circuit Judge
JURISDICTION	Federal
DECIDED	October 4, 2019
DOCKET	18-2236-cr
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the United States District Court for the Northern District of New York imposing an 18-month term of imprisonment following a second revocation of supervised release.
STANDARD OF REVIEW	Procedural and substantive sentencing challenges are reviewed for abuse of discretion. Unpreserved procedural objections are reviewed for plain error. A defendant asserting plain error must show an error that is clear or obvious, affected substantial rights, and seriously affected the fairness, integrity, or public reputation of judicial proceedings.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Lameik Degroate, aka La Gunz v. United States of America

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QUESTIONS PRESENTED

1. Whether Federal Rule of Criminal Procedure 32.1(b)(2)(E) gives a supervisee a right to call mitigation or character witnesses at a supervised-release revocation hearing.
2. Whether the district court unlawfully delegated judicial authority to the Probation Office by requiring Degroate to comply with a curfew whose commencement date and conditions were to be set by the probation officer.
3. Whether any error arising from the Probation Office's alleged imposition of a two-day lockdown affected the outcome of the revocation hearing.
4. Whether Degroate's above-Guidelines sentence was substantively unreasonable because the district court allegedly overemphasized dangerousness and failed to account for mitigating factors.

HOLDINGS

1. Federal Rule of Criminal Procedure 32.1(b)(2)(E) gives a supervisee the right to make a statement and present mitigating information, but does not give the supervisee a right to call live mitigation or character witnesses. The district court therefore did not err by denying Degroate's request to have his mother address the court.
2. The district court did not unlawfully delegate its judicial authority by requiring Degroate to comply with a curfew while allowing the Probation Office to set the curfew's commencement date and precise conditions.
3. Even assuming that the Probation Office exceeded its delegated authority by imposing a two-day lockdown, Degroate failed to show that the lockdown violations affected the outcome of the revocation hearing; therefore, the alleged error did not warrant relief under plain-error review.
4. Degroate's 18-month above-Guidelines sentence was not substantively unreasonable.

KEY QUOTATIONS

"In sum, we conclude that a supervisee does not have the right to expand allocution by presenting mitigation witnesses at a revocation hearing, and that the District Court did not err, much less plainly err, by denying Degroate's request to have his mother speak at his revocation hearing." (14)

"Here, the District Court unambiguously authorized a restriction on Degroate's liberty—"You must comply with a curfew"—and left to the Probation Office's discretion authority to decide such details as the curfew's start date and nightly duration." (17)

"For the foregoing reasons, we AFFIRM the District Court's July 27, 2018 judgment." (26)

FACTUAL BACKGROUND

Degroate repeatedly violated the conditions of supervised release, including conditions concerning curfew, association with felons, reporting police contact, participation in a residential reentry program, and electronic monitoring. After the Probation Office imposed a temporary lockdown within the scope of a curfew condition, Degroate left his residence on two occasions and admitted to tampering with his monitoring bracelet. At the second revocation hearing, the district court denied his request to have his mother testify, considered the admitted violations and mitigating circumstances, and imposed an above-Guidelines 18-month sentence.

PROCEDURAL HISTORY

Degroate pleaded guilty to conspiring to violate RICO and was sentenced to imprisonment followed by supervised release. After his supervised release was first revoked, the district court imposed a new term of supervised release with a curfew condition and electronic monitoring. Following additional violations, including curfew and electronic-monitoring violations, the district court revoked supervised release and imposed an above-Guidelines 18-month sentence. The Second Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- United States v. Yilmaz, 910 F.3d 686, 688 (2d Cir. 2018)
- In re Sims, 534 F.3d 117, 132 (2d Cir. 2008)
- In re City of New York, 607 F.3d 923, 943 n.21 (2d Cir. 2010)
- United States v. Robinson, 702 F.3d 22, 38 (2d Cir. 2012)
- United States v. Matta, 777 F.3d 116, 122, 124 (2d Cir. 2015)
- United States v. Rigas, 583 F.3d 108, 122 (2d Cir. 2009)
- United States v. Broxmeyer, 699 F.3d 265, 289 (2d Cir. 2012)
- United States v. Verkhoglyad, 516 F.3d 122, 128 (2d Cir. 2008)
- United States v. Boyland, 862 F.3d 279, 288-89 (2d Cir. 2017)
- United States v. Brown, 843 F.3d 74, 81 (2d Cir. 2016)
- United States v. Peterson, 248 F.3d 79, 85 (2d Cir. 2001)
- United States v. Young, 910 F.3d 665, 671 (2d Cir. 2018)
- United States v. Levy, 738 F. App'x 724 (2d Cir. 2018)
- United States v. Contreras-Delgado, 913 F.3d 232, 240 (1st Cir. 2019)
- United States v. Cunningham, 883 F.3d 690, 699 (7th Cir. 2018)
- United States v. Cruzado-Laureano, 527 F.3d 231, 238 (1st Cir. 2008)
- United States v. Romano, 794 F.3d 317, 339 (2d Cir. 2015)
- United States v. Villafuerte, 502 F.3d 204, 210 (2d Cir. 2007)
- United States v. Sindima, 488 F.3d 81, 86 (2d Cir. 2007)
- United States v. Valdez, 426 F.3d 178, 184 (2d Cir. 2005)

