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Criminal Law & Procedure, Sentencing

US v. Medina, No. 13-1936

In this case, defendant pled guilty to failure to register as a sex offender when he moved to Puerto Rico in 2012, in violation of the Sex Offender Notification and Registration Act (SORNA). Defendant was sentenced to a thirty-month prison term, to be followed by a twenty-year term of supervised release. Defendant challenges two of the supervised release conditions and the length of the supervised release term. The two conditions restrict defendant from accessing or possessing a wide range of sexually stimulating material, and requires defendant to submit to penile plethysmograph testing if the sex offender treatment program in which he must participate chooses to use such testing. The supervised release sentence term and challenged conditions are vacated and the case is remanded for resentencing, where: 1) the district court erred in setting the length of the supervised release term; and 2) the district court inadequately justified the imposition of the challenged supervised release conditions.

Criminal Law & Procedure, Sentencing

US v. Moran-Calderon, No. 13-2140

In this case, defendant pleaded guilty to possessing and brandishing a firearm in relation to a crime of violence in violation of 18 U.S.C. section 924(c)(1)(A). Defendant had robbed a casino with three other individuals, and his share of the cash was \$10,000. The district court sentenced defendant to 108 months in prison and a five year term of supervised release, and ruled that defendant and his co-defendants were jointly and severally liable in restitution pursuant to the Mandatory Victim Restitution Act (MVRA). Defendant appeals his sentence, arguing that the district court erred in imposing restitution on him and in failing to set a payment schedule for the restitution. The sentence is vacated and remanded, where: 1) the district court is required to set a payment schedule pursuant to section 3664(f)(2); 2) the district court did not set a schedule, but merely ordered that defendant begin making restitution payments when he completes his prison sentence and that, if necessary, a payment plan may be agreed to with either the probation office or the Government; 3) it is improper for a district court to delegate its discretion to set restitution payment schedules to the probation office; and 4) the judge rather than the probation officer must have the final authority to determine the payment schedule.