

DEC 13 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VERONICA ANA MARIA RAMIREZ,
AKA Veronica Martinez, AKA Veronica
Ana Ramirez, AKA Veronica Maria
Ramirez,

Defendant - Appellant.

No. 11-50521

D.C. No. 8:10-cr-00034-DOC-2

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted December 2, 2013
Pasadena, California

Before: SCHROEDER, CLIFTON, and WATFORD, Circuit Judges.

1. The district court did not plainly err in imposing the standard third-party notification condition of supervised release. The Sentencing Guidelines include the challenged third-party notification condition as a “standard” condition in

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

§ 5D1.3(c), rather than in the sections dealing with “special” occupational restrictions. *See* U.S. Sentencing Guidelines Manual §§ 5D1.3(e), 5F1.5 (2011). No Ninth Circuit precedent holds that imposition of the challenged condition amounts to an occupational restriction. Ramirez relies on *United States v. Britt*, 332 F.3d 1229, 1232 (9th Cir. 2003), but that case dealt with a special condition that directly and “expressly limit[ed] the terms” of the defendant’s employment at the time it was imposed. In addition, other circuits addressing the challenge raised by Ramirez appear to have split. *Compare United States v. Souser*, 405 F.3d 1162, 1165 (10th Cir. 2005), *with United States v. Ritter*, 118 F.3d 502, 504 n.2 (6th Cir. 1997). Under these circumstances, any error could not have been plain or obvious. *See United States v. Thompson*, 82 F.3d 849, 855–56 (9th Cir. 1996).

2. The parties agree that, pursuant to the terms of Ramirez’s plea agreement, the district court should have dismissed count 1. We remand for that limited purpose.

AFFIRMED in part and REMANDED in part for the limited purpose of dismissing count 1.