

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13103
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO OSCAR TATUM,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:18-cr-00109-MHT-SMD-1

Before JORDAN, NEWSOM, and BRASHER, Circuit Judges.

PER CURIAM:

In March of 2019, Antonio Oscar Tatum pled guilty to one count of theft of a firearm from a federal firearms licensee in violation of 18 U.S.C. § 922(u). *See* D.E. 125. The district court sentenced him to 100 months’ imprisonment. *See* D.E. at 154 at 2.

After serving his sentence, Mr. Tatum was to begin his three-year term of supervised release in July of 2025. *See* D.E. 216. But before his term of supervised release began, the Probation Office filed a status update with the district court requesting a hearing to discuss concerns related to Mr. Tatum’s conduct. *See id.* One of those concerns was his relationship with a woman, C.D., who has certain “mental health disabilities” and “intelligence issues.” *See* D.E. 254 at 4. Following an evidentiary hearing related to Mr. Tatum’s relationship with C.D., the district court modified Mr. Tatum’s conditions of supervised release to include a no-contact order between him and C.D., her family, and her coworkers. *See* D.E. 224. Mr. Tatum now appeals this modification of the conditions of his supervised release.

I

Before the term of supervised release began, the Probation Office filed a letter with the district court regarding Mr. Tatum’s conduct and certain concerns it had with his release. The court scheduled a status conference where it heard from Mr. Tatum’s Probation Officer, Brandy Brendle. She expressed concerns about Mr. Tatum’s behavior, specifically regarding his relationship with

C.D. *See* D.E. 254 at 2–3. She outlined initial disciplinary issues that occurred during Mr. Tatum’s sentence, including “being where he was not given permission to be,” as well as “phone abuse, disruptive monitoring, refusing to obey an order, being insolent to staff,... engaging in sexual acts[,]....[and] eight different [issues of] refusing to work[.]” *Id.* at 5–6.

Ms. Brendle also expressed concern over Mr. Tatum’s relationship with C.D., who is a Goodwill employee with access to the federal courthouse. *See id.* at 3. She testified about her concerns for C.D. because of her “mental health disabilities” and “intelligence issues” that made her “a vulnerable individual.” *Id.* at 4. She also explained that the probation office had received reports of several threats made by Mr. Tatum towards C.D. and her family, and a report of assault by Mr. Tatum towards C.D. in June of 2025. *See id.* at 4.

Based on these concerns, Ms. Brendle requested that the district court impose a no-contact order as a special condition to Mr. Tatum’s supervised release. *See id.* at 4–5. This proposed order would prevent Mr. Tatum from having any contact with C.D., her family, or her coworkers. *See id.* The court entered a temporary no-contact order pending an evidentiary hearing where it would hear more evidence related to the relationship between Mr. Tatum and C.D. *See* D.E. 220.

During the evidentiary hearing, the district court heard testimony from several witnesses who all described C.D. as “a little kid” and “not able to make decisions and stuff on her own[.]” D.E.

251 at 6, 17. This testimony included conversations with coworkers, C.D.’s father, and Ms. Brendle. *See generally* D.E. 251.

The hearsay testimony at the hearing included conversations the witnesses had with C.D. where she said she was being hit “hard on the behind,” as well as watching C.D. move slowly, not wanting to sit down. *See id.* at 7–9. Specifically, multiple witnesses corroborated an incident C.D. discussed with them, where Mr. Tatum became angry at her because she did not promptly answer her phone. *See id.* at 18, 50–52. Mr. Tatum then “stormed into her room while she was laying there and pinned her on the mattress[, hitting] her about six times on the rear end” to the point where “she saw white.” *Id.* at 18, 24, 50–52. Other testimony indicated that Mr. Tatum threatened not only C.D., but her coworker and her father. *See id.* at 9–12, 23, 29–31. The threats included Mr. Tatum wanting to fight one of C.D.’s coworkers and claiming he was going to “jump on her dad.” *Id.* at 11. Mr. Tatum also threatened to stab C.D.’s father in the stomach and burn his house down while he and his wife slept inside. *See id.* at 9–12, 23, 29–31. C.D.’s father testified that Mr. Tatum told him that he would marry C.D. and take over social security payments that she received. *See id.* at 32.

The following day, the district court appointed an attorney to represent C.D. to determine if she wished to testify. The attorney stated she believed C.D. did not wish to testify and “does not have a problem with no longer having contact with Mr. Tatum.” D.E. 227 at 1. The court accepted that C.D. would not testify and

indicated that the supervised release modification was fully submitted and under review by the court. *See* D.E. 228. Mr. Tatum’s counsel filed to reopen the evidentiary hearing so that Mr. Tatum could testify. *See* D.E. 229. The court denied this motion. *See* D.E. 235.¹

On August 25, 2025, the district court issued an order granting the government’s request to modify Mr. Tatum’s supervised release to include the no-contact order. *See* D.E. 238. The court concluded that Mr. Tatum posed a danger to C.D., her family, and at least one of her coworkers due to Mr. Tatum’s acts and threats of violence. *See id.* at 11. The court also relied on C.D.’s disability and “attendant manipulability” along with Mr. Tatum’s history of lawbreaking over approximately 15 years and repeated probation violations as reasons for imposing the no-contact order. *See id.*

Mr. Tatum appeals this order and argues that the district court abused its discretion in imposing the no-contact order because it relied on hearsay testimony during the evidentiary hearing, and because the order violates his constitutional right of intimate association and results in a greater deprivation of liberty than is reasonably necessary. *See* Appellant’s Br. at 11–13.

II

We review a modification of the terms of a defendant’s supervised release for abuse of discretion. *See United States v. Cordero*, 7 F.4th 1058, 1066 (11th Cir. 2021). We also review imposition of

¹ Mr. Tatum does not challenge this ruling on appeal.

special conditions of supervised release for abuse of discretion. *See United States v. Moran*, 573 F.3d 1132, 1137 (11th Cir. 2009).

A district court “abuses its discretion if it ‘fails to apply the proper legal standard or to follow proper procedures in making its determination.’” *United States v. Jules*, 595 F.3d 1239, 1242 (11th Cir. 2010) (alteration adopted) (quoting *United States v. Izquierdo*, 448 F.3d 1269, 1276 (11th Cir. 2006)). “We will reverse only if we have a ‘definite and firm conviction that the district court committed a clear error of judgment in the conclusion it reached.’” *Moran*, 573 F.3d at 1137 (alteration accepted) (citation omitted).

III

Federal Rule of Criminal Procedure 32.1(c) sets forth the requirements for a modification of supervised release. Rule 32.1(c) requires a hearing where the defendant “has the right to counsel and an opportunity to make a statement and present any information in mitigation.” Fed. R. Crim. P. 32.1(c)(1).

Following that hearing, a district court may impose any special condition of supervised release if it comports with certain of the 18 U.S.C. § 3553(a) factors. *See* 18 U.S.C. § 3583(d) (“The court may order, as a further condition of supervised release, to the extent that such condition . . . is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D)) . . .”). The select § 3553(a) factors to be considered are:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant; [and]
- (2) the need for the sentence imposed—

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(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

See 18 U.S.C. § 3583(d)(2) (citing § 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(d)). “[I]t is not necessary for a special condition to be supported by each factor enumerated in § 3553(a). Rather, each is an independent consideration to be weighed.” *United States v. Zinn*, 321 F.3d 1084, 1089 (11th Cir. 2003) (citation omitted).

A special condition of supervised release must be “‘reasonably related’ to the § 3553(a) factors,” and “involve no greater deprivation of liberty than is reasonably necessary for the purposes set forth [in § 3553(a)] and [be] consistent with any pertinent policy statements issued by the Sentencing Commission.” *Zinn*, 321 F.3d at 1089 (citing U.S.S.G. § 5D1.3(b)). Mr. Tatum claims that the district court’s imposition of a no-contact order was an abuse of discretion for two reasons. We are persuaded by neither.

First, Mr. Tatum argues that the district court erred in imposing a no-contact order because it “deprives him of his constitutional right of intimate association, and results in a greater deprivation of liberty than is reasonably necessary.” Appellant’s Br. at 14. But after careful review of the court’s order and the record, we cannot say that the court abused its discretion by issuing a no-contact order against Mr. Tatum. The order was reasonably related to the

relevant § 3553(a) factors and involved no greater deprivation than was reasonably necessary for § 3553(a) purposes. The court properly assessed Mr. Tatum’s 15-year history of criminal conduct, as well as his personal characteristics of engaging in “risky and dangerous behavior,” *see* § 3553(a)(1); the need to protect members of the public—namely, C.D., her family, and her coworkers from Mr. Tatum, *see* § 3553(a)(2)(C); as well as the need to further rehabilitate Mr. Tatum, *see* § 3553(a)(2)(D). Although a condition of supervised release “should not unduly restrict a defendant’s liberty, a condition is not invalid simply because it affects a probationer’s ability to exercise constitutionally protected rights.” *Zinn*, 321 F.3d at 1089 (citation omitted). Moreover, the court indicated that it would reassess the continued need for the no-contact order in a year. *See* D.E. 238 at 18. Accordingly, we cannot say that we are left with a firm conviction that the court committed a clear error of judgment in concluding that a no-contact order was warranted and that it involved no greater deprivation than reasonably necessary.²

Second, Mr. Tatum argues that “[i]n reaching a contrary conclusion, the district court relied heavily upon hearsay testimony that Mr. Tatum assaulted C.D. and made threats to her family and coworkers.” Appellant’s Br. at 14. And he continues that the court

² In its order, the district court noted that “neither the United States Supreme Court nor the United States Court of Appeals Eleventh Circuit has determined whether a district court may impose a no-contact order as a condition of supervised release.” D.E. 238 at 15. Mr. Tatum does not challenge the district court’s authority to impose a no-contact order as part of his appeal, so we do not address this issue.

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therefore did not hold the government to its evidentiary burden “of establishing the factual basis necessary to support the special condition of supervised release.” *Id.*

The district court reached its conclusion that Mr. Tatum posed a danger to C.D. after hearing evidence from four separate witnesses who independently corroborated each other’s accounts of Mr. Tatum’s conduct and its impact on C.D. *See* D.E. 238 at 14–15. As a result, the court reasonably concluded that the testimony “bore indicia of reliability.” *See id.* at 14 (citing *United States v. Giltner*, 889 F.2d 1004, 1007 (11th Cir. 1989)). We cannot say that the court abused its discretion in relying on a factual record containing the independent corroboration of four separate witnesses.³

IV

The district court’s modification of the conditions of Mr. Tatum’s supervised release to include a no-contact order as to C.D. is affirmed.

AFFIRMED.

³ The district court also concluded that the Federal Rules of Evidence did not apply to a modification of supervised release proceeding, citing Fed. R. Evid. 1101. *See* D.E. 238 at 13. Because this ruling is not challenged on appeal, we express no view on that issue.