

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13720
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDWARD VERDI-BRUNO,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:22-cr-00347-CEH-LSG-1

Before ROSENBAUM, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Edward Verdi-Bruno, proceeding *pro se*, appeals the district court's denial of several post-judgment motions in his criminal case seeking relief from his sentence. We affirm the district court.

I.

In 2023, Verdi-Bruno pled guilty to one count of conspiracy to possess with intent to distribute fentanyl, cocaine, and heroin, and two counts of distribution and possession with intent to distribute fentanyl. *See* 21 U.S.C. §§ 841(a)(1) & 846. The district court calculated a guideline range of 262 to 327 months, based on a total offense level of 38 and a criminal-history category of I, and then sentenced Verdi-Bruno to the low end of that range. We affirmed Verdi-Bruno’s 262-month sentence in July 2024. *See United States v. Verdi-Bruno*, No. 23-12310, 2024 WL 3311390 (11th Cir. 2024).

In August 2024, Verdi-Bruno filed a motion to correct a clerical error under Federal Rule of Civil Procedure 60(a). He argued for the first time that the presentence investigation report (“PSR”) incorrectly applied a two-level importation enhancement, *see* U.S.S.G. § 2D1.1(b)(16)(C), because Puerto Rico was not a foreign country from which goods could be imported. He asked the court to “correct this clear clerical mistake or oversight,” adjust his offense level downward by two levels, and reduce his sentence to 210 months, the low end of the adjusted guideline range. Verdi-Bruno also claimed that the court made a clear mistake in assigning him one criminal-history point.

Then, in November 2024, Verdi-Bruno filed a motion to set aside the judgment for fraud on the court under Federal Rule of Civil Procedure 60(d)(3). He asserted that his attorney forged his signature on a form consenting to have a magistrate judge conduct his plea colloquy.

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The district court denied both motions on January 29, 2025. The court found that Fed. R. Civ. P. 60 did not apply to criminal cases, and that, while Fed. R. Crim. P. 36 permitted correction of clerical errors in criminal cases, Verdi-Bruno sought substantive alterations to his sentence outside the limited scope of that rule. In addition, the court concluded that Verdi-Bruno's challenge to his guilty plea amounted to a collateral attack on his conviction and sentence that was available only under § 2255, and that he could request leave to amend his pending § 2255 motion to raise this issue within 30 days.

Verdi-Bruno moved to alter or amend the district court's order, asserting that his "fraud upon the court" argument was cognizable under Fed. R. Civ. P. 60(d)(3), and that it divested the court of jurisdiction to adjudicate his guilt. He also maintained that the court had authority under Fed. R. Crim. P. 36 to "correct the oversight or omission that caused the illegal sentence" under an "illegal higher guideline."

The district court denied the motion to alter or amend. Verdi-Bruno again moved for reconsideration, which the court denied, and he now appeals.

II.

We review de novo the district court's interpretation and application of federal rules of procedure. *United States v. Lopez*, 562 F.3d 1309, 1311 (11th Cir. 2009). We review the denial of a motion to reconsider for abuse of discretion. *United States v. Simms*, 385

F.3d 1347, 1356 (11th Cir. 2004). We liberally construe *pro se* filings. *United States v. Webb*, 565 F.3d 789, 792 (11th Cir. 2009).

District courts have no inherent authority to modify criminal sentences and may do so “only when authorized by a statute or rule.” *United States v. Puentes*, 803 F.3d 597, 605 06 (11th Cir. 2015). Under Fed. R. Crim. P. 36, “the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” Fed. R. Crim. P. 36. But it’s “clear in this Circuit that Rule 36 may not be used to make a substantive alteration to a criminal sentence.” *United States v. Portillo*, 363 F.3d 1161, 1164 (11th Cir. 2004) (quotation marks omitted). Instead, Rule 36 is a remedy for errors that are “minor and mechanical in nature.” *Id.* at 1165.

Here, the district court properly denied relief under Fed. R. Crim. P. 36 because the alleged PSR error is substantive in nature, not minor, mechanical, or clerical. *See id.* Verdi-Bruno’s motion asked the district court to amend the PSR to state that Puerto Rico was a U.S. territory, not a foreign country. That omission, according to Verdi-Bruno, caused the court to wrongly apply a two-level importation enhancement under U.S.S.G. § 2D1.1(b)(16)(C), resulting in an “illegal sentence.” Verdi-Bruno expressly requested that the court adjust both his guidelines “to the right offense level 37” and his “sentence to 210 months.”

In sum and substance, Verdi-Bruno sought to use a purported clerical error “to make a substantive alteration to a criminal sentence,” which is not permitted by Rule 36. *See Portillo*, 363 F.3d

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at 1164. The district court correctly denied Verdi-Bruno's motion to correct clerical errors, as well as his motion for reconsideration of that order. *See Simms*, 385 F.3d at 1356.

Verdi-Bruno also has not shown that the district court erred in denying his request to set aside the judgment for "fraud on the court." He notes that the court initially described his motion incorrectly as under Fed. R. Civ. P. 60(b)(3), instead of Fed. R. Civ. P. 60(d)(3). But that mistake played no role in the court's analysis.

The district court denied the motion because it "amount[ed] to a collateral attack on his conviction and sentence that is only available under 28 U.S.C. § 2255." And after Verdi-Bruno moved for reconsideration, the court correctly recognized that he sought relief under Fed. R. Civ. P. 60(d)(3) on the ground that the judgment was void.

The court explained, however, that Fed. R. Civ. P. 60 did not apply in criminal proceedings, and that Verdi-Bruno's claim was cognizable only as a collateral attack on his conviction under § 2255. *See, e.g., United States v. Holt*, 417 F.3d 1172, 1175 (11th Cir. 2005) ("Because, in the instant case, Holt is collaterally attacking his sentence as violating the United States Constitution, the proper avenue of relief is § 2255."); *United States v. Mosavi*, 138 F.3d 1365, 1366 (11th Cir. 1998) (holding that the Federal Rules of Civil Procedure do not provide for relief from a judgment in a criminal case).

Verdi-Bruno's briefing, even liberally construed, fails to address the district court's reasons for denying his motions for relief

on this claim. So he has abandoned any argument on that issue. *See Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (“While we read briefs filed by pro se litigants liberally, issues not briefed on appeal by a pro se litigant are deemed abandoned.”) (citations omitted). His claim that the court failed to rule on his Fed. R. Civ. P. 60(d)(3) motion is flatly contradicted by the record. And we see no abuse of the court’s discretion in the court’s denial of his motions for reconsideration. *See Simms*, 385 F.3d at 1356.

For these reasons, we affirm the denial of Verdi-Bruno’s motions to correct clerical errors in the PSR, to set aside the judgment for fraud on the court, and for reconsideration of those rulings.

AFFIRMED.