

Not for Publication in West's Federal Reporter

United States Court of Appeals
For the First Circuit

No. 18-1504

UNITED STATES OF AMERICA,

Appellee,

v.

YAMIL VARGAS-SANTIAGO,

Defendant-Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

[Hon. Francisco A. Besosa, U.S. District Judge]

Before

Lynch, Stahl, and Lipez,
Circuit Judges.

Eric A. Vos, Federal Public Defender, Vivianne M. Marrero, Assistant Federal Public Defender, Supervisor, Appeals Section, and Liza L. Rosado-Rodriguez, Research and Writing Specialist, on brief for appellant.

Rosa Emilia Rodríguez-Vélez, United States Attorney, Mariana E. Bauzá-Almonte, Assistant United States Attorney, Chief, Appellate Division, and Julia M. Meconiates, Assistant United States Attorney, on brief for appellee.

March 25, 2019

Per Curiam. After careful consideration, we affirm the revocation of appellant Yamil Vargas-Santiago's supervised release. Vargas-Santiago does not contest that he was subject to mandatory revocation based on his failed drug tests. See 18 U.S.C. § 3583(g)(4). Therefore, even if the district court erred in finding, based on hearsay evidence, that Vargas-Santiago had assaulted his mother -- and we make no judgment on that claim by Vargas-Santiago -- any error was harmless. See United States v. Fontanez, 845 F.3d 439, 445 (1st Cir. 2017); see also United States v. Williams, 847 F.3d 251, 254 (5th Cir. 2017); United States v. Mosley, 759 F.3d 664, 669 (7th Cir. 2014). Moreover, to the extent that the district court may have erred in considering the hearsay evidence in imposing an above-guideline revocation sentence, Vargas-Santiago has only challenged the revocation judgment, and he has thus waived any challenge to the length of his sentence or to the court's sentencing procedure. See, e.g., United States v. Henry, 848 F.3d 1, 7 (1st Cir. 2017) (noting that an appellant ordinarily "waives" any argument not raised in his opening brief).

Affirmed. See 1st Cir. Loc. R. 27.0(c).