

# Press Releases

## O'Melveny Secures Win for Pro Bono Client Before Supreme Court of the United States

February 26, 2020



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### RELATED PROFESSIONALS

#### **Jeffrey L. Fisher**

Silicon Valley

D: +1-650-473-2633

#### **Kendall Turner**

Washington, DC

D: +1-202-383-5204

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### FOR IMMEDIATE RELEASE

**WASHINGTON, DC—February 26, 2020—**O'Melveny claimed a unanimous victory at the US Supreme Court today in a case with important implications for federal criminal defendants challenging the length of their sentences on appeal.

The case, *Holguin-Hernandez v. United States*, concerns a longstanding rule in the Fifth Circuit, which covers Texas, Louisiana, and Mississippi, requiring a criminal defendant to formally object to a sentence's length as unreasonable in order to preserve that challenge for appeal. O'Melveny represented pro bono Gonzalo Holguin-Hernandez, who was convicted on drug charges and sentenced to 60 months in prison and five years of supervised release. The conviction came while he was already serving a term of supervised release for an earlier conviction.

The Government sought to impose an additional prison term of 12 to 18 months for violating the conditions of the earlier term of supervised release. Holguin-Hernandez argued during his sentencing hearing that the relevant sentencing factors, outlined in 18 U.S.C. § 3553, did not support imposing an additional prison sentence or at least required the district court to impose a sentence of less than 12 months.

The court nonetheless imposed an additional 12-month prison term. Holguin-Hernandez appealed, challenging the length of his sentence. The Fifth Circuit rejected that challenge, noting that an appellate court reviews the length of a sentence for "reasonableness." Additionally, it held that Holguin-Hernandez had failed to preserve his challenge to the length of his sentence because he had not framed his argument in terms of the sentence's "unreasonableness" while he was still in the trial court. Because Holguin-Hernandez had in failed to satisfy the Fifth Circuit's preservation rule, the Fifth Circuit reviewed the length of his sentence only for plain error—a very high bar.

On February 26, the Supreme Court unanimously vacated the Fifth Circuit's decision. It held that Holguin-Hernandez's argument for a specific sentence (nothing or less than 12 months) preserved for appeal his challenge to the length of his sentence. It explained that "reasonableness" is a standard of appellate review and that there is no need for a party to frame an objection in terms of the relevant appellate standard while still in district court. The case was remanded to the Fifth Circuit for further proceedings consistent with the Supreme Court's opinion.

O'Melveny special counsel Jeff Fisher, one of the nation's leading Supreme Court practitioners and scholars, and counsel Kendall Turner represented Holguin-Hernandez, with Turner delivering oral arguments. The case marked Turner's first appearance before the Supreme Court, but she wasn't in completely unfamiliar territory; earlier in her career, she clerked for Justice Stephen Breyer.

The High Court's decision affects every federal criminal defendant who challenges the length of his or her sentence on appeal, particularly in the Fifth Circuit. Those defendants can now challenge the length of their sentences on appeal under the proper standard of review.

"Thanks to the Supreme Court's decision, federal criminal defendants have one less hurdle to clear to challenge the length of their sentence on appeal," Turner said.

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### **Contact:**

*Christopher Rieck O'Melveny & Myers LLP*  
+1 212 326 2218  
[crieck@omm.com](mailto:crieck@omm.com)