UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 26-4055

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KELLY CHRISTINE HARTMAN, a/k/a Kelly Banks,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Roderick Charles Young, District Judge. (3:23-cr-00128-RCY-2)

Submitted: August 25, 2026 Decided: September 2, 2026

Before WYNN, HARRIS, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Mark Bodner, Fairfax, Virginia, for Appellant. Todd W. Blanche, Attorney General, Robert S. Day, Assistant United States Attorney, Lauren N. Beebe, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In December 2023, Kelly Christine Hartman pled guilty, pursuant to a plea agreement, to conspiracy to aid escape from custody, in violation of 18 U.S.C. § 371. The district court sentenced Hartman to 15 months' imprisonment, followed by a three-year term of supervised release. In January 2026, the district court revoked Hartman's supervised release and sentenced her to 12 months' imprisonment, with no supervised release term to follow. On appeal, Hartman argues that the district court impermissibly relied on the retributive factors under 18 U.S.C. § 3553(a)(2)(A) when imposing her revocation sentence. Hartman specifically takes issue with the district court's consideration of her lack of candor to the probation officer and her failure to appear for a prior revocation hearing. We affirm.

A district "court has broad discretion to impose a particular sentence upon revocation of a defendant's term of supervised release," and we will affirm a revocation sentence "unless it is above the statutory maximum or plainly unreasonable." *United States v. Celedon*, 165 F.4th 873, 879 (4th Cir. 2026) (internal quotation marks omitted). "To determine whether a revocation sentence is plainly unreasonable, we first assess whether it is procedurally or substantively unreasonable, under a deferential appellate posture." *United States v. Walton*, 145 F.4th 476, 486 (4th Cir. 2025) (internal quotation marks omitted), *cert. denied*, 146 S. Ct. 1461 (2026). "Only if a sentence is either procedurally or substantively unreasonable is a determination then made as to whether the sentence is plainly unreasonable—that is, whether the unreasonableness is clear or obvious." *United States v. Patterson*, 957 F.3d 426, 437 (4th Cir. 2020) (internal quotation marks omitted).

"A revocation sentence is procedurally reasonable if," among other requirements, "the district court adequately explains the chosen sentence after considering . . . the applicable 18 U.S.C. § 3553(a) factors." *Walton*, 145 F.4th at 486 (internal quotation marks omitted). Section 3583(e) sets forth the § 3553(a) factors applicable to supervised release revocation proceedings. 18 U.S.C. § 3583(e). Omitted from that list are the factors identified in § 3553(a)(2)(A). *See id.* Accordingly, a district court "cannot consider § 3553(a)(2)(A) when revoking supervised release," *Esteras v. United States*, 606 U.S. 185, 195 (2025), meaning the court cannot consider "the need for the sentence imposed to 'reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense,' *i.e.*, the retributive purposes of sentencing," *id.* at 192 (quoting 18 U.S.C. § 3553(a)(2)(A)). "In the context of a revocation hearing, the 'offense' is the underlying crime of conviction, not the violation of the supervised-release conditions." *Id.* at 193-94. Thus, a district court cannot "account for the need to exact retribution for the defendant's underlying crime" when imposing a revocation sentence. *Id.* at 194-95.

"If the defendant does not make the district court aware that it may be impermissibly relying on § 3553(a)(2)(A), then the defendant's appeal will be governed by plain-error review." *Id.* at 202. Under that standard, "the district court's order revoking supervised release and requiring reimprisonment will be affirmed unless it is clear or obvious that the district court actually relied on § 3553(a)(2)(A)—because it did so either expressly or by unmistakable implication." *Id.* at 202-03 (internal quotation marks omitted). The Supreme Court explained that a contemporaneous objection would allow the district court to

"recognize its potential error and clarify its revocation decision to make clear that it is not taking account of § 3553(a)(2)(A)." *Id.* at 203.

Before the district court, Hartman argued that, under *Esteras*, the court could not consider the policy statement range in Chapter 7 of the Sentencing Guidelines, as that range was based on the breach-of-trust theory, which sounds in retribution, not proper factors like deterrence or protection of the public. But Hartman's argument on appeal is not that the district court impermissibly relied on the policy statement range or her breach of the court's trust. Rather, Hartman argues only that the district court impermissibly relied on the retributive factors in § 3553(a)(2)(A) when it considered her lack of candor to the probation officer and her failure to appear. And Hartman never objected to the district court's consideration of those facts. Indeed, Hartman suggested that two weeks' imprisonment and an evaluation for executive dysfunction on supervised release would be enough to deter her from failing to appear for court and for any other important appointments. Furthermore, Hartman never directly addressed her false claim about her attendance at the Thrive treatment program, let alone argue that the district court could not consider that fact when imposing her sentence. Accordingly, because Hartman did not alert the district court that it may be impermissibly relying on the retributive factors by considering her lack of candor to the probation officer and her failure to appear, our review is for plain error.

To establish plain error, the defendant "must prove that (1) an error was made; (2) the error is plain; (3) the error affects substantial rights; and (4) the error seriously affects the fairness, integrity or public reputation of judicial proceedings." *United States*

v. Garrett, 141 F.4th 96, 103 (4th Cir. 2025) (internal quotation marks omitted). "An error is plain if it is clear or obvious by the time of appeal, either because of settled law of the Supreme Court or this circuit or, in the absence of such authority, decisions by other circuit courts of appeals." *United States v. Coston*, 964 F.3d 289, 294 (4th Cir. 2020) (citation modified). And, in the sentencing context, a defendant can establish that an error affected her substantial rights by showing "a reasonable probability that, but for the error, the outcome of the proceeding would have been different." *Rosales-Mireles v. United States*, 585 U.S. 129, 134-35 (2018) (internal quotation marks omitted).

The Government argues that Hartman cannot satisfy any prong of plain-error review. But we resolve this case on the second prong and concluded that, even if the district court imposed the 12-month revocation sentence, in part, as punishment for Hartman's lack of candor and failure to appear, this error was not plain. Whether a court may consider retribution for supervised release violations when imposing a revocation sentence is an open question. And, here, it is abundantly clear that any consideration of the retributive factors was related to Hartman's supervised release violations—that is, her lack of candor, her failure to appear, her repeated drug use, her failure to follow the probation officer's instructions, and her failure to satisfactorily participate in an outpatient treatment program. Indeed, the district court never mentioned Hartman's original offense during the revocation hearings.

Because the district court focused on Hartman's supervised release violations, not her underlying conviction, we conclude that the district court did not clearly or obviously run afoul of *Esteras* through its consideration, if any, of the retributive factors in

§ 3553(a)(2)(A). *See Esteras*, 606 U.S. at 194-95 (holding that a court may not "account for the need to exact retribution for the defendant's underlying crime" when imposing a revocation sentence). Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED