

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-21186
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALI RAZAK,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-303-1

September 4, 2002

Before GARWOOD, JOLLY and SMITH, Circuit Judges.

PER CURIAM:*

Ali Razak appeals his sentence for illegal reentry after deportation, in violation of 8 U.S.C. § 1326. Razak challenges the district court's two-level upward departure. Because Razak did not object on this basis below, we review the district court's decision to depart from the Sentencing Guidelines for plain error. See United States v. Alford, 142 F.3d 825, 830 (5th Cir. 1998).

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Although the district court did not explicitly state which Sentencing Guideline its departure was based on, our review of the record persuades us that the district court's departure was based on U.S.S.G. § 5K2.9, p.s., which provides that an upward departure may be warranted if the offense of conviction was committed "in order to facilitate or conceal the commission of another offense." The district court found that Razak had illegally reentered the country for the purpose of committing additional crimes. We find no plain error in the district court's finding or upward departure on this basis.

We also conclude that the two-level upward departure, which resulted in an additional six months of imprisonment, was reasonable.

AFFIRMED.