

September 7, 2006

Charles R. Fulbruge III  
Clerk

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 05-10165  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-

Appellee,

versus

TRINO GARCIA-SALAZAR,

Defendant-

Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:04-CR-125-ALL  
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Before DeMOSS, STEWART and PRADO, Circuit Judges.

PER CURIAM:\*

Trino Garcia-Salazar appeals the 24-month sentence imposed following his conviction for illegal reentry into the United States. Garcia-Salazar argues that the district court erred by basing his sentence, which was above the pertinent guidelines range, on facts that were not admitted or established beyond a reasonable doubt. Garcia-Salazar further contends that the district court failed to give proper consideration to the sentencing factors listed in 18 U.S.C. § 3553(a).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Garcia-Salazar's argument concerning factual findings is unavailing. *See United States v. Johnson*, 445 F.3d 793, 797-98 (5th Cir.), *cert. denied*, 126 S. Ct. 2884 (2006). Garcia-Salazar's claim concerning the § 3553(a) factors is refuted by the record, which reflects that the district court gave proper consideration to these factors when sentencing Garcia-Salazar. Garcia-Salazar has not shown that the district court abused its discretion at sentencing, nor has he shown that his sentence is unreasonable. *See United States v. Smith*, 440 F.3d 704, 706-07 (5th Cir. 2006). Garcia-Salazar's argument concerning his rights under the Ex Post Facto and Due Process Clauses is, as he concedes, unavailing. *See United States v. Scroggins*, 411 F.3d 572, 575-76 (5th Cir. 2005). The judgment of the district court is AFFIRMED.