

August 30, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50866
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE DIMAS MEDINA-ARGUETA, also
know as Jose Dimas Medina,

Defendant-Appellant.

Appeal from the United States District Court for
the Western District of Texas
(USDC No. 1:04-CR-169-1)

Before REAVLEY, GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:*

Jose Dimas Medina-Argueta pleaded guilty to harboring illegal aliens and conspiring to harbor illegal aliens. He appeals his sentence arguing that the district court

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

erred in applying the “vulnerable victim” enhancement under United States Sentencing Guidelines § 3A1.1(b)(1). We agree that the district court erred in applying the enhancement. *United States v. Medina-Argueta*, – F.3d –, 2006 WL 1752145, at *3 (5th Cir. June 27, 2006). However, Medina-Argueta’s sentence falls within a properly calculated guideline range, and thus, his sentence remains presumptively reasonable. *Id.* at *4. Because Medina-Argueta does not contend that his sentence is unreasonable based on the factors set forth in 18 U.S.C. § 3553(a), we affirm his sentence.

AFFIRMED.