

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2008

No. 07-41105
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

RAUL MACHADO-MARTINEZ, also known as Raul Machado, also
known as Simon Hernandez Sanchez, also known as Francisco
Javier Lima-Valdez

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:07-CR-11-1

Before GARZA, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Raul Machado-Martinez appeals the sentence imposed following his guilty-plea conviction of being found in the United States without permission, following removal. Machado-Martinez argues that his sentence is procedurally unreasonable because the district court did not provide notice that it was considering an upward variance in his case. Machado-Martinez does not contend

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that the district court committed any other procedural error in imposing his sentence or that the sentence imposed in his case is substantively unreasonable. See *Gall v. United States*, 128 S. Ct. 586, 596-97 (2007). The Government has filed a motion for summary affirmance, or in the alternative, for an extension of time in which to file a brief.

As Machado-Martinez concedes, his argument is foreclosed by this court's holding in *United States v. Mejia-Huerta*, 480 F.3d 713, 722-23 (5th Cir. 2007), cert. denied, 128 S. Ct. 2954 (2008). The Supreme Court recently reached the same conclusion. *Irizarry v. United States*, 128 S. Ct. 2198, 2202-04 (2008).

The Government's motion for summary affirmance is GRANTED, and the district court's judgment is AFFIRMED. The Government's alternative motion for an extension of time is DENIED.