

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

September 15, 2008

Charles R. Fulbruge III  
Clerk

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No. 07-51003  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSHUA NEHEMIAH REYNA, also known as Joshua Nemiah Reyna

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:05-CR-220-ALL

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Before DAVIS, GARZA and PRADO, Circuit Judges.

PER CURIAM:\*

Joshua Nehemiah Reyna appeals the mandatory consecutive 60-month and 300-month sentences imposed following his guilty-plea convictions for possession of a firearm during a drug-trafficking offense. Reyna argues that the sentences are cruel and unusual in violation of the Eighth Amendment because they are grossly disproportionate to the severity of the offenses committed.

Because Reyna failed to object on this ground in the district court, review

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

is for plain error. See *United States v. Howard*, 220 F.3d 645, 647 (5th Cir. 2000). In comparison to the life sentence imposed in *Rummel v. Estelle*, 445 U.S. 263 (1980), on a non-violent criminal pursuant to a recidivist statute, and the 30-year sentence imposed in *United States v. Gonzales*, 121 F.3d 928, 943-44 (5th Cir. 1997), on a non-habitual offender convicted of using or carrying a firearm during a drug-trafficking offense, the sentences imposed on Reyna are not grossly disproportionate to his offenses. See *Gonzales*, 121 F.3d at 943; *McGruder v. Puckett*, 954 F.2d 313, 316 (5th Cir. 1992).

Accordingly, the judgment of the district court is **AFFIRMED**.