

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

September 18, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-51108  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEX ENAMORADO-LOPEZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:08-CR-178-ALL

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Before REAVLEY, DAVIS, and HAYNES, Circuit Judges.

PER CURIAM:\*

Alex Enamorado-Lopez (Enamorado) appeals his 57-month sentence imposed following his guilty plea conviction for illegal reentry after deportation, in violation of 8 U.S.C. § 1326. He argues that the sentence is greater than necessary to meet the sentencing goals outlined in 18 U.S.C. § 3553(a) and specifically asserts that, in light of *Kimbrough v. United States*, 128 S. Ct. 558 (2007), the presumption of reasonableness does not apply to his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

within-guidelines sentence because the illegal reentry guideline, U.S.S.G. § 2L1.2, is flawed in that it is not supported by “empirical data and national experience.”

We have consistently rejected Enamorado’s “empirical data” argument, concluding that *Kimbrough* does not question the presumption of reasonableness and does not require district or appellate courts to independently analyze the empirical grounding behind each individual guideline. *See United States v. Duarte*, 569 F.3d 528, 529-30 (5th Cir. 2009); *United States v. Mondragon-Santiago*, 564 F.3d 357, 366-67 (5th Cir. 2009), *pet. for cert. filed*, (June 24, 2009) (No. 08-11099). Because the sentence imposed by the district court was within the advisory guidelines range of 57 to 71 months of imprisonment, it is entitled to a presumption of reasonableness. *See United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006); *United States v. Campos-Maldonado*, 531 F.3d 337, 338 (5th Cir.), *cert. denied*, 129 S. Ct. 328 (2008). Enamorado has not shown sufficient reason for this court to disturb that presumption. *See Campos-Maldonado*, 531 F.3d at 339.

The judgment of the district court is AFFIRMED.