

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10721
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LORENZO SANTA ANA-VALDESPINO,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:00-CR-20-1-Y

April 4, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Lorenzo Santa Ana-Valdespino appeals the upward-departure sentence imposed by the district court following his guilty-plea conviction for illegal reentry into the United States, in violation of 8 U.S.C. § 1326. He argues that the court's imposition of the statutory maximum sentence "effectively nullified" his acceptance-of-responsibility adjustment and did not "take into account either [his] cooperation with the government or the mitigating circumstances of his childhood and personal history."

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Our review of the record and the arguments and authorities convinces us that no reversible error was committed. Ana-Valdespino fails to cite any authority indicating that the district court was required to apply a three-level acceptance of responsibility adjustment from the statutory maximum sentence, and the record reflects that the district court did consider mitigating circumstances surrounding the case.

While the sentence imposed in this case was two and one-half times the recommended Guideline range, this result is not unreasonable in light of the evidence of numerous instances of past criminal conduct, which were not considered in the criminal history calculation, and the overwhelming likelihood that Ana-Valdespino would return to a similar course of behavior. Accordingly, on this record, the extent of the district court's departure was reasonable and not an abuse of discretion. See United States v. Route, 104 F.3d 59, 64 (5th Cir. 1997).

The judgment of the district court is AFFIRMED.