

July 18, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-50635  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DANIEL PEREZ-LOPEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:04-CR-2782-ALL  
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Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Daniel Perez-Lopez was convicted of one charge of illegal reentry into the United States and sentenced to serve 24 months in prison and a three-year term of supervised release. Perez-Lopez challenges his sentence, which was the result of an upward departure from the applicable guidelines sentencing range. He argues that the district court erred by not giving adequate notice of the departure and by not giving sufficient reasons to support its decision to depart. We review these arguments for plain error only due to Perez-Lopez's failure to raise

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appropriate objections in the district court. See United States v. Jones, 444 F.3d 430, 433 (5th Cir. 2006).

There is nothing in the record to indicate that the district court likely would have given Perez-Lopez a lesser sentence if he had received notice of the departure. Further, the extent of the departure is not excessive when compared with other departures that we have considered. Consequently, Perez-Lopez has not shown plain error in connection with his sentence. See Jones, 444 F.3d at 442-43. The judgment of the district court is AFFIRMED.