

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

January 16, 2008

Charles R. Fulbruge III  
Clerk

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No. 06-41600  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JORGE A. HABIB-RODRIGUEZ

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:06-CR-576-1

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Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Jorge A. Habib-Rodriguez pleaded guilty to one count of aiding and abetting possession with intent to distribute marijuana. He was sentenced to 57 months in prison.

Habib challenges the reasonableness of his sentence, particularly the district court's failure to impose a sentence below the calculated advisory Sentencing Guidelines range, based on the sentencing factors set forth in 18 U.S.C. § 3553(a). For sentencing, Habib neither contested the calculation of that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

range nor objected to a sentence being imposed within it. Therefore, review is only for plain error.

The district court gave sufficient reasons for sentencing Habib within that sentencing range. Furthermore, Habib's sentence within that advisory range was presumptively reasonable, and Habib has not shown that the "sentence ... constitute[s] a clear error in the court's exercise of its broad sentencing discretion" as to whether the sentence "(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors". *United States v. Nikonova*, 480 F.3d 371, 376 (5th Cir.) (internal quotation marks and citation omitted), cert. denied, 128 S. Ct. 163 (2007).

AFFIRMED.