

March 29, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50669
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MERCED MARTINEZ-SOLIS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:05-CR-743

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Merced Martinez-Solis appeals the 24-month non-guidelines sentence he received after pleading guilty to illegal reentry following deportation. Martinez-Solis argues that his sentence is unreasonable because the district court (1) gave significant weight to an irrelevant factor by sentencing him based on the seriousness of his prior intoxication manslaughter conviction; (2) failed to account for a factor that should have received significant weight by not considering that he was successfully recovering from alcoholism; and (3) committed a clear error of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

judgment in the weight it afforded to his prior convictions that were not counted in his U.S.S.G. criminal history score compared against his recovery from alcoholism. Martinez-Solis fails to demonstrate that the district court abused its discretion with regard to the reasonableness of the non-guidelines sentence. See United States v. Reinhart, 442 F.3d 857, 864 (5th Cir.), cert. denied, 127 S. Ct. 131 (2006); United States v. Smith, 440 F.3d 704, 707-10 (5th Cir. 2006).

AFFIRMED.