

**FILED**

September 4, 2007

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 06-51062  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

EDUARDO COSME COMPEAN

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:04-CR-558-ALL

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Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Eduardo Cosme Compean appeals the sentence imposed following revocation of his probation for his conviction for possession with the intent to distribute less than 50 kilograms of marijuana. Compean argues that his sentence of 60 months of imprisonment exceeds the advisory guidelines range and is unreasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

Compean's sentence of 60 months of imprisonment does not exceed the statutory term of imprisonment and is therefore a legal sentence. See United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States v. Pena, 125 F.3d 285, 288 (5th Cir. 1997). Moreover, the district court is not limited to the advisory ranges available at the time of the initial sentence. See *id.* at 287.

The district court implicitly considered the factors set forth in § 3553(a) when imposing Compean's sentence. See *United States v. Gonzalez*, 250 F.3d 923, 930 (5th Cir. 2001). The district court concluded that Compean repeatedly violated the conditions of his probation despite receiving numerous opportunities for rehabilitation. Thus, the sentence is neither unreasonable nor plainly unreasonable in light of the circumstances. See *United States v. Hinson*, 429 F.3d 114, 119-20 (5th Cir. 2005), cert. denied, 547 U.S. 1083 (2006).

The judgment of the district court is **AFFIRMED**.