

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 23, 2008

No. 07-50117
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE FIDENCIO RODRIGUEZ-RAMIREZ

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-1565-1

Before JONES, Chief Judge, and PRADO and ELROD, Circuit Judges.

PER CURIAM:*

Jose Fidencio Rodriguez-Ramirez appeals his 50-month sentence imposed following his guilty-plea conviction for illegal reentry into the United States. He contends that the district court failed to give an adequate explanation of its application of the 18 U.S.C. § 3553(a) factors, as required by *Gall v. United States*, 128 S. Ct. 586 (2007). The Government contends that this claim should be reviewed for plain error due to Rodriguez-Ramirez's failure to object to the lack of reasons in the district court.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Rodriguez-Ramirez has not shown that the sentence imposed by the district court was unreasonable. His 50-month sentence was within the applicable guideline range and therefore is entitled to a presumption of reasonableness on appeal. See *Gall*, 128 S.Ct. at 597; see also *United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006). Further, because the district court imposed a sentence within the guideline range, a lengthy explanation of the sentence was not required. See *Rita v. United States*, 127 S. Ct. 2456, 2468 (2007). Rodriguez-Ramirez does not argue that the district court improperly calculated the applicable guideline range. Although the district court did not offer explicit reasons for the 50-month sentence, the record reflects that the district court considered the evidence and arguments presented by Rodriguez-Ramirez; and that the court found that Rodriguez-Ramirez's circumstances did not warrant a different sentence. See *id.* at 2469. Rodriguez-Ramirez fails to show any error that is clear or obvious. See *United States v. Hernandez*, 457 F.3d 416, 424 (5th Cir. 2006). Additionally, he has not rebutted the presumption of reasonableness by showing that the court's failure to give explicit reasons affected his substantial rights or called into question the fairness and integrity of the proceedings. Accordingly, the judgment of the district court is AFFIRMED.