

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 24, 2008

No. 07-51210
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE LUIS LUGO-QUINONES

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:07-CR-152-1

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Luis Lugo-Quinones (Lugo) appeals the 33-month sentence he received after he pleaded guilty to conspiracy to possess marijuana with intent to distribute and possession with intent to distribute. Lugo contends that the sentence was unreasonable because the court failed to consider that he committed the offense in order to pay for his 15-year old daughter's birthday party or that he has not been convicted of a crime since 1997.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Lugo did not argue in the district court that his sentence was unreasonable. Nor did he argue that the motive for his offense should affect the sentence he received. Therefore, his sentence is reviewed for plain error. See *United States v. Peltier*, 505 F.3d 389, 390-93 (5th Cir. 2007), petition for cert. filed (Jan. 22, 2008) (No. 07-8978).

The district court committed no procedural error at sentencing. See *Gall v. United States*, 128 S. Ct. 586, 597 (2007). Moreover, the district court addressed the nature and circumstances of Lugo's offense, the seriousness of his offense, and the need to deter him from additional crimes. See 18 U.S.C. § 3553(a)(1) and (2). The district court also considered the guideline range and any policy statements of the Sentencing Commission. See § 3553(a)(4) & (5). Thus, Lugo has not shown that the sentence imposed by the district court was an abuse of discretion that constituted error, plain or otherwise. See *Gall*, 128 S. Ct. at 597; *United States v. Nikonova*, 480 F.3d 371, 376 (5th Cir.), cert. denied, 128 S. Ct. 163 (2007). The judgment of the district court is AFFIRMED.