

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

May 29, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-50801  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOAQUIN HERNANDEZ-HOLGUIN, also known as Joaquin A Hernandez, also known as Mauricio Ramirez-Hernandez

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:08-CR-00859-ALL

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Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

Joaquin Hernandez-Holguin (Hernandez) appeals the 30-month sentence imposed following his guilty plea conviction for illegal reentry after removal in violation of 8 U.S.C. § 1326. He contends that his sentence is not entitled to a presumption of reasonableness because it was calculated pursuant to U.S.S.G. § 2L1.2, which he argues is not supported by empirical evidence. He further

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

contends that his sentence was greater than necessary to accomplish the goals of sentencing listed in 18 U.S.C. § 3553(a)(2).

Hernandez's contention that his sentence is not entitled to a presumption of reasonableness because the relevant guideline is not supported by empirical evidence is without merit. *See United States v. Mondragon-Santiago*, \_\_\_ F.3d \_\_\_, 2009 WL 782894, \*9 (5th Cir. Mar. 26, 2009). Hernandez's sentence is presumptively reasonable. *See United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006). Moreover, the district court addressed the factors set out at 18 U.S.C. § 3553(a) when imposing his sentence. Hernandez has failed to rebut the presumption of reasonableness.

AFFIRMED.