

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

United States Court of Appeals
Fifth Circuit

FILED

January 13, 2014

Lyle W. Cayce
Clerk

No. 13-50238
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE GERARDO RAMOS-GARCIA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:12-CR-1036

Before DAVIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Jose Gerardo Ramos-Garcia (Ramos) was convicted of illegal reentry into the United States and sentenced to serve 37 months in prison. He now challenges his sentence as unreasonable. Under Ramos's view, his sentence is greater than necessary to achieve the aims of 18 U.S.C. § 3553(a) because his criminal history was overstated and because he came here to visit his son and to find employment. Additionally, he complains that the illegal reentry

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 13-50238

Guideline is not empirically based and therefore his sentence is not afforded the presumption of reasonableness given to within-guidelines sentences.

Following *United States v. Booker*, 543 U.S. 220 (2005), we typically review sentences for reasonableness in light of the sentencing factors set forth in § 3553(a), and we also consider whether the sentence imposed is an abuse of discretion. *United States v. Mondragon-Santiago*, 564 F.3d 357, 360 (5th Cir. 2009). Insofar as Ramos argues that the district court erred by not according enough weight to certain sentencing factors, this argument amounts to no more than a disagreement with the district court's weighing of these factors, which shows no error in connection with the sentence imposed. *See United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009). To the extent he contends that this court should reweigh the § 3553(a) factors, we decline to do so. *See United States v. Campos-Maldonado*, 531 F.3d 337, 339 (5th Cir. 2008). Ramos's remaining argument regarding the presumption of reasonableness is unavailing because it has been rejected by this court. *See United States v. Duarte*, 569 F.3d 528, 529-30 (5th Cir. 2009). The judgment of the district court is AFFIRMED.