

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

No. 13-50911
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 14, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NICACIO MUNOZ-HERRERA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:13-CR-336-1

Before DAVIS, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:*

Nicacio Munoz-Herrera (Munoz) appeals the 36-month sentence imposed after his guilty plea conviction for illegal reentry following a prior deportation. He argues that the above-guidelines sentence is substantively unreasonable because it was greater than necessary to satisfy the sentencing goals of 18 U.S.C. § 3553(a). Munoz asserts that the district court gave inordinate weight to his remote, prior offenses and failed to give sufficient weight to his personal circumstances.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Munoz has not shown that his sentence was substantively unreasonable. The record reflects that the district court had an adequate basis for the sentence imposed and was guided by the § 3553(a) factors in deciding that an upward variance was merited. The district court made an individualized assessment and concluded that the guidelines range did not adequately take into account the § 3553(a) factors, including Munoz's history and characteristics, the need to promote respect for the laws of the United States, the need to protect the public, and the need to deter future crimes. To the extent that Munoz disagrees with his sentence and the district court's evaluation of the § 3553(a) factors, he has not shown that the district court abused its discretion on that basis. *See Gall v. United States*, 522 U.S. 38, 51 (2007).

AFFIRMED.