

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

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2019

Lyle W. Cayce
Clerk

No. 18-50212
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOEL AGUAYO-GOMEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:17-CR-840-1

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Joel Aguayo-Gomez appeals his 57-month top-of-the-Guidelines-range sentence imposed after he pled guilty to illegal reentry into the United States following deportation. He contends that his sentence was greater than necessary to meet the sentencing goals of 18 U.S.C. § 3553(a).

We review sentences for substantive reasonableness under an abuse of discretion standard. *Gall v. United States*, 552 U.S. 38, 49-51 (2007). Because

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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the district court imposed a sentence within a properly calculated Guidelines range, the sentence is entitled to a rebuttable presumption of reasonableness. *See United States v. Rashad*, 687 F.3d 637, 644 (5th Cir. 2012).

This court has rejected Aguayo-Gomez's argument that the illegal reentry Guideline renders his sentence unreasonable because it impermissibly double counts his criminal history. *See United States v. Duarte*, 569 F.3d 528, 529-31 (5th Cir. 2009). Additionally, this court has rejected the argument that the Guidelines overstate the seriousness of illegal reentry because it is simply an international trespass offense. *See United States v. Aguirre-Villa*, 460 F.3d 681, 682-83 (5th Cir. 2006). Aguayo-Gomez's contention that his benign motives for returning to the United States warranted a lesser sentence is also unavailing. *See United States v. Gomez-Herrera*, 523 F.3d 554, 565-66 (5th Cir. 2008). Last, we have also determined that a sentence is not rendered unreasonable because of the alleged remoteness of a defendant's prior conviction. *See United States v. Rodriguez*, 660 F.3d 231, 234 (5th Cir. 2011).

The district court made an individualized assessment of the sentencing factors, including the mitigating circumstances presented by Aguayo-Gomez, and determined that a Guidelines sentence was appropriate in the case. The district court was in a superior position to find facts and evaluate their importance under Section 3553(a), and we will not reweigh the district court's assessment of the Section 3553(a) factors. *See Gall*, 552 U.S. at 51-52. Aguayo-Gomez failed to rebut the presumption of reasonableness applicable to his Guidelines-range sentence. *See Rashad*, 687 F.3d at 644; *United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009).

The district court's judgment is AFFIRMED.