UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-20107
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EVERARDO SANCHEZ-MENDEZ,

Defendant-Appellant.

Appeal from the United States District Court
For the Southern District of Texas
(CR H 93-00268-01)

(November 14, 1994)

Before POLITZ, Chief Judge, JONES and BARKSDALE, Circuit Judges.

PER CURIAM:[*]

Everardo Sanchez-Mendez appeals the sentence imposed after his guilty plea conviction of illegal reentry after deportation.[1] His court-appointed counsel filed an **Anders**[2] brief and moved to

---

[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

[1]8 U.S.C. § 1326.

[2]**Anders v. California**, 386 U.S. 738 (1967).

withdraw. Concluding after our review of counsel's brief and the entire record that there is no nonfrivolous issue for consideration on appeal, the motion to withdraw is granted and the appeal is dismissed.

Sanchez-Mendez was sentenced to 150 months imprisonment, to run consecutively to a state sentence for burglary, to be followed by a three-year term of supervised release.

In an instance as presented by this appeal, we review the record, and any points raised by counsel and the appellant,[3] in light of controlling principles of law, to determine whether there is any potentially meritorious issue raised or that may be raised. If we find no such issue, the motion to withdraw may be granted and the appeal may be dismissed.[4] Our review of the guilty plea and sentencing hearings persuades of the absence of any nonfrivolous issue.

The record reflects that the district court addressed the core concerns of Fed.R.Crim.P. 11 before accepting the guilty plea. We entertain no doubt that in the translated colloquy Sanchez-Mendez was informed of the charge, the constitutional rights which were waived by the guilty plea, and the consequences of that plea, including the maximum punishment at risk.[5] We conclude that the guilty plea was knowing, free, and voluntary.

---

[3]Sanchez-Mendez was notified of counsel's motion to withdraw. He has submitted no filing.

[4]**Anders**.

[5]See **United States v. Johnson**, 1 F.3d 296 (5th Cir. 1993) (*en banc*).

We likewise find no error in the sentence. The offense level was computed to be 21, after adjusting upward for a murder conviction and downward for acceptance of responsibility.[6] The criminal history category of VI resulted from weighing prior felony convictions and misdemeanor drug-related convictions.[7] This resulted in a sentencing range of 77-96 months.[8]

The sentencing judge found that an upward departure was in order and, after due notice, departed upward 54 months on findings that the offense level and criminal history category did not adequately reflect the seriousness of defendant's past conduct, the likelihood of his committing other crimes, and his repeated commission of the offense of conviction. We perceive neither factual nor legal error in these reasons for departure.[9] The PSR computations did not consider convictions imposed 15 years before the instant offense and that much of the excluded conduct was identical to the offense of conviction. The reasons assigned by the district court are both acceptable and reasonable,[10] and the amount of departure is not inappropriate.[11]

The trial court's sentencing methodology cannot be faulted.

---

[6]U.S.S.G. §§ 2L1.2(a), 2L1.2(b)(2), 3E1.1(a) and (b).

[7]U.S.S.G. § 4A1.1(a), (b), and (d).

[8]U.S.S.G. § Ch.5, Pt.A.

[9]**United States v. Pennington**, 9 F.3d 1116 (5th Cir. 1993).

[10]**United States v. Velasquez-Mercado**, 872 F.2d 632 (5th Cir.), cert. denied, 493 U.S. 866 (1989).

[11]**United States v. Lambert**, 984 F.2d 658 (5th Cir. 1993) (*en banc*).

The court used Sanchez-Mendez's criminal history category points in excess of the 13 required for category VI to increase his offense level incrementally. This mode of calculation was not inappropriate.[12]

Counsel's motion to withdraw is GRANTED; the appeal is DISMISSED.

[12]**United States v. Rosogie**, 21 F.3d 632 (5th Cir. 1994).