

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

United States Court of Appeals
Fifth Circuit

FILED

April 11, 2011

Lyle W. Cayce
Clerk

No. 10-10735
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SANTOS RIOS-NOLASCO,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:10-CR-15-1

Before KING, BENAVIDES, and ELROD, Circuit Judges.ˆ

PER CURIAM:*

Santos Rios-Nolasco appeals from the sentence imposed following his guilty plea conviction for illegal reentry after deportation. He argues that his sentence violates the Cruel and Unusual Punishment Clause of the Eighth Amendment because it was disproportional as to his conduct underlying the offense of conviction. A 57-month sentence for a first illegal reentry offense by a defendant with a prior felony conviction for transportation of illegal aliens is not grossly disproportionate to the crime. *See Rummel v. Estelle*, 445 U.S. 263,

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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284-85 (1980); *United States v. Cardenas-Alvarez*, 987 F.2d 1129, 1134 (5th Cir. 1993).

The district court's judgment is AFFIRMED.