

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

No. 18-10281
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 14, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JESUS CORNELIO DOLMO-ALVAREZ, also known as Jesus Alvarez,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:17-CR-111-1

Before JOLLY, COSTA, and HO, Circuit Judges.

PER CURIAM:*

Jesus Cornelio Dolmo-Alvarez was convicted by guilty plea for being an alien found in the United States after having been previously removed. Based on Dolmo-Alvarez's criminal history, the district court imposed an above-Guidelines term of 48 months of imprisonment, as well as one year of supervised release.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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On appeal, Dolmo-Alvarez argues that the district court erred by finding that he committed the uncharged crime of driving while under the influence (DWI) when imposing the upward variance. In considering Dolmo-Alvarez's challenge to the procedural unreasonableness of his sentence, we review the district court's interpretation and application of the Sentencing Guidelines de novo and its findings of fact for clear error. *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008). The record does not support Dolmo-Alvarez's contention that the district court relied on his unadjudicated DWI offense to support the upward variance.

Accordingly, the judgment of the district court is AFFIRMED.