

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 5, 2026

Lyle W. Cayce
Clerk

No. 25-50669
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOHES DAVID SIERRA-CRUZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:25-CR-34-1

Before SMITH, STEWART, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Johes Sierra-Cruz appeals his 42-month sentence for illegal reentry in violation of 8 U.S.C. § 1326(a). He maintains the above-guidelines sentence is substantively unreasonable.

Assuming, without deciding, that Sierra-Cruz preserved his challenge regarding substantive reasonableness, *see United States v. Navarro-Jusino*, 993 F.3d 360, 362 n.2 (5th Cir. 2021), the district court did not abuse its

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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discretion by varying upward based on Sierra-Cruz's criminal history and characteristics, the need to afford adequate deterrence to criminal conduct, and the need to protect the public from future crimes by Sierra-Cruz, *see United States v. Woods*, 102 F.4th 760, 765–66 (5th Cir. 2024); 18 U.S.C. § 3553(a). The sentence is well below the statutory maximum, and we have upheld proportionally greater variances. *See* 8 U.S.C. § 1326(b)(2); *United States v. Key*, 599 F.3d 469, 475–76 (5th Cir. 2010).

AFFIRMED.