# United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
**FILED**
November 4, 2026
Thomas B. Plunkett, III
Clerk

No. 26-50198
Summary Calendar

UNITED STATES OF AMERICA,

*Plaintiff—Appellee*,

*versus*

PEDRO HERNANDEZ-VARGAS,

*Defendant—Appellant*.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:25-CR-2568-1

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:[*]

Pedro Hernandez-Vargas pleaded guilty to illegal reentry, in violation of 8 U.S.C. § 1326, and was sentenced above the guidelines range to 21 months of imprisonment. He argues that the sentence is substantively unreasonable.

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

We review a sentence for substantive reasonableness by considering "the totality of the circumstances, including the extent of any variance from the Guidelines range." *United States v. Gerezano-Rosales*, 692 F.3d 393, 400 (5th Cir. 2012). Here, the district court's sentence was based on Hernandez-Vargas's immigration history, his quick return, his pending criminal charges, and his likelihood of recidivism. The court was entitled to rely on his criminal history even though it was included in the guidelines calculations. *See United States v. Lopez-Velasquez*, 526 F.3d 804, 807 (5th Cir. 2008); 18 U.S.C. § 3553(a)(1). Additionally, the sentence imposed is well within the 10-year statutory maximum available and is similar to or less than variances this court has upheld in the past. *See* 8 U.S.C. § 1326(b)(1); *see also Lopez-Velasquez*, 526 F.3d at 805-07; *United States v. Herrera-Garduno*, 519 F.3d 526, 531-32 (5th Cir. 2008).

AFFIRMED.