

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4495

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID ROA-BAHENA, a/k/a David Bahena Roa, a/k/a Roa David
Bahena,

Defendant - Appellant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Greensboro. Catherine C. Eagles,
District Judge. (1:15-cr-00022-CCE-1)

Submitted: February 2, 2017

Decided: February 9, 2017

Before SHEDD, WYNN, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, Mireille P. Clough,
Assistant Federal Public Defender, Winston-Salem, North
Carolina, for Appellant. Ripley Rand, United States Attorney,
Lisa B. Boggs, Assistant United States Attorney, Greensboro,
North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Roa-Bahena pled guilty, pursuant to a written agreement, to illegal reentry after deportation, in violation of 8 U.S.C. § 1326(a), (b)(1) (2012). The district court sentenced Roa-Bahena to 37 months in prison, within the range established by the Sentencing Guidelines, to run concurrently with his undischarged state sentence. On appeal, Roa-Bahena challenges the substantive reasonableness of the sentence. Finding no error, we affirm.

We review the reasonableness of a sentence "under a deferential abuse-of-discretion standard." Gall v. United States, 552 U.S. 38, 41 (2007). Because Roa-Bahena does not assert any procedural sentencing error, we review only the substantive reasonableness of the sentence, "tak[ing] into account the totality of the circumstances." Id. at 51. We presume that a sentence within a properly calculated Guidelines range is substantively reasonable, rebuttable only "by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors." United States v. Louthian, 756 F.3d 295, 306 (4th Cir. 2014).

We have reviewed the record and discern no abuse of the district court's discretion in selecting the within-Guidelines-range sentence. Thus, we conclude that Roa-Bahena has failed to rebut the presumption of reasonableness applied to his sentence.

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED