

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

United States Court of Appeals
Fifth Circuit

FILED

April 19, 2010

Lyle W. Cayce
Clerk

No. 09-50722

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO CORTEZ-GOMEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:08-CR-1192-1

Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Francisco Cortez-Gomez (Cortez) appeals the nonguidelines sentence imposed following his guilty plea conviction for illegal reentry after deportation. He argues that the 21-month sentence imposed is unreasonable under 18 U.S.C. § 3553(a) because the sentence is greater than necessary to address the sentencing factors set forth therein.

The district court determined that the advisory guidelines range was not adequate and that a greater sentence was warranted based on Cortez's prior

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

criminal history, characteristics, the need to protect the public, and to deter future criminal behavior. Cortez has not shown that the district court's determination was an abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Smith*, 440 F.3d 704, 709-10 (5th Cir. 2006). Accordingly, the judgment of the district court is AFFIRMED.