

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 16-4743**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE GUTIERREZ-YANEZ, a/k/a Daniel Saucedo-Gutierrez, a/k/a Jose Gutierrez-Saucedo, a/k/a Daniel Gutierrez-Saucedo,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas D. Schroeder, District Judge. (1:16-cr-00113-TDS-1)

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Submitted: June 16, 2017

Decided: June 30, 2017

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Before WILKINSON, DUNCAN, and FLOYD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Helen L. Parsonage, ELLIOT MORGAN PARSONAGE, Winston-Salem, North Carolina, for Appellant. Sandra J. Hairston, Acting United States Attorney, Randall S. Galyon, Assistant United States Attorney, Winston-Salem, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Jose Gutierrez-Yanez appeals his sentence of 140 months in prison after pleading guilty to possession with intent to distribute methamphetamine and illegal reentry of an aggravated felon. The district court sentenced him below his Guidelines range of 151 to 188 months. On appeal, he questions whether his sentence is greater than necessary to satisfy the sentencing purposes in 18 U.S.C. § 3553(a) (2012). We affirm.

When reviewing a criminal sentence, we must first ensure that the district court committed no significant procedural error, such as improperly calculating the Guidelines range. *Gall v. United States*, 552 U.S. 38, 51 (2007). If there is no procedural error, we review the substantive reasonableness of the sentence for abuse of discretion, taking into account the totality of the circumstances. *Id.* We consider a sentence within or below the Guidelines range to be presumptively reasonable on appeal. *United States v. White*, 850 F.3d 667, 674 (4th Cir.), *cert. denied*, 2017 WL 1956227 (U.S. June 12, 2017); *United States v. Susi*, 674 F.3d 278, 289 (4th Cir. 2012). The presumption can only be rebutted 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 conclude that Gutierrez-Yanez's sentence is reasonable. He does not identify any procedural error by the district court, and we discern no such error. Moreover, we conclude that he fails to rebut the presumption that his sentence is substantively reasonable. The district court properly considered the parties' sentencing arguments and provided a reasoned explanation for the sentence, with

specific consideration of the § 3553(a) factors and Gutierrez-Yanez's downward variance request. The district court granted that request and imposed a reasonable sentence.

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

*AFFIRMED*