

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 5, 2009

No. 08-50009
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SALVADOR LOPEZ, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-CR-2110-ALL

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Salvador Lopez, Jr., was convicted of one count of importing 100 kilograms or more of marijuana into the United States and one count of possessing 100 kilograms or more of marijuana with intent to distribute. The district court sentenced him to serve 120 months in prison and a 10 year term of supervised release. Lopez challenges his term of supervised release in this appeal. He argues that his term of supervised release is unreasonable because it is greater than necessary to meet the goals of 18 U.S.C. § 3553(a).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We review this issue for plain error only due to Lopez's failure to present it to the district court. *See United States v. Allison*, 447 F.3d 402, 405 (5th Cir. 2006). To show plain error, Lopez must show a forfeited error that is clear or obvious and that affects his substantial rights. *Puckett v. United States*, 129 S. Ct. 1423, 1429 (2009). If he makes such a showing, this court has the discretion to correct the error but will do so only if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

Our review of the record shows that Lopez has not met this standard. The 10 year supervised release term imposed by the district court was within both the statutory and applicable guideline ranges. Further, the district court's comments at sentencing show that it considered the factors given in § 3553(a) when choosing this term. Lopez has not shown plain error with respect to the district court's imposition of a 10 year term of supervised release. *See Gall v. United States*, 128 S. Ct. 586, 597 (2007); *Puckett*, 129 S. Ct. at 1429.

The judgment of the district court is AFFIRMED.