

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

United States Court of Appeals
Fifth Circuit

FILED

May 29, 2009

No. 08-50801

Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOAQUIN HERNANDEZ-HOLGUIN, also known as Joaquin A Hernandez, also known as Mauricio Ramirez-Hernandez

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:08-CR-00859-ALL

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Joaquin Hernandez-Holguin (Hernandez) appeals the 30-month sentence imposed following his guilty plea conviction for illegal reentry after removal in violation of 8 U.S.C. § 1326. He contends that his sentence is not entitled to a presumption of reasonableness because it was calculated pursuant to U.S.S.G. § 2L1.2, which he argues is not supported by empirical evidence. He further

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

contends that his sentence was greater than necessary to accomplish the goals of sentencing listed in 18 U.S.C. § 3553(a)(2).

Hernandez's contention that his sentence is not entitled to a presumption of reasonableness because the relevant guideline is not supported by empirical evidence is without merit. *See United States v. Mondragon-Santiago*, ___ F.3d ___, 2009 WL 782894, *9 (5th Cir. Mar. 26, 2009). Hernandez's sentence is presumptively reasonable. *See United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006). Moreover, the district court addressed the factors set out at 18 U.S.C. § 3553(a) when imposing his sentence. Hernandez has failed to rebut the presumption of reasonableness.

AFFIRMED.