

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

United States Court of Appeals
Fifth Circuit

FILED

June 16, 2009

No. 08-50862
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

EDDY RAUL ZETINO-MORALES, also known as Eddy Raul Cety-Morales

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:07-CR-1048-ALL

Before SMITH, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Eddy Raul Zetino-Morales (Zetino) appeals the within-guidelines sentence that he received after he pleaded guilty to being in this country unlawfully 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 contends that his sentence is unreasonable even if a presumption of reasonableness is applicable.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Zetino'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*, 564 F.3d 357, 367 (5th Cir. 2009). Zetino'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)--particularly the need to deter Zetino from committing future offenses--when imposing sentence. Zetino has failed to rebut the presumption of reasonableness.

AFFIRMED.