

**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.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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