

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

United States Court of Appeals
Fifth Circuit

F I L E D

July 28, 2010

No. 09-20818
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE DOMINGUEZ VASQUEZ, also known as Jorge Dominguez, also known as Jorge Dominguez-Vasquez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CR-298-1

Before JOLLY, GARZA, and STEWART, Circuit Judges.

PER CURIAM:*

Jorge Dominguez Vasquez appeals the 50-month sentence imposed following his guilty plea conviction for being unlawfully present when found in the United States after having been previously deported after an aggravated felony conviction. His sole argument on appeal is that the sentence is substantively unreasonable.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The record shows that the district court considered all of the 18 U.S.C. § 3553(a) factors and belies the assertions that the district court did not consider the prior conviction to the exclusion of all of the other facts and circumstances in this case or gave it too much weight in light of the other § 3553(a) factors. The court's comments show that it was familiar with the contents of the presentence report, that it had considered Dominguez Vasquez's request for a variance in light of his personal circumstances, that it considered the Government's arguments against such a variance, and that it ultimately determined, based on all of these, that a within-guidelines sentence of 50 months was appropriate, *i.e.*, sufficient, but not greater than necessary, to meet the sentencing goals of § 3553(a)(2). Dominguez Vasquez has not rebutted the presumption of reasonableness that attaches to his within-guidelines sentence. *See United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009), *cert. denied*, 130 S. Ct. 1930 (2010).

AFFIRMED.