

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

United States Court of Appeals
Fifth Circuit

FILED

January 6, 2010

No. 09-50459

Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROBERTO ARMANDO TENA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CR-292-1

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Roberto Armando Tena appeals the 24-month sentence imposed following his guilty plea convictions for importing 50 kilograms or more of marijuana and possessing with intent to distribute 50 kilograms or more of marijuana. He argues that it was unreasonable for the district court not to grant a downward variance because the sentence imposed fails to account for his physical and mental impairments.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Tena's 24-month sentence, which is at the lowest end of the properly calculated guidelines range, is presumptively reasonable. *See United States v. Campos-Maldonado*, 531 F.3d 337, 338 (5th Cir.), *cert. denied*, 129 S. Ct. 328 (2008). The district court considered Tena's request for a downward variance, but determined that his argument regarding the relationship between his impairments and the commission of the offenses was speculative. Tena has not shown sufficient reason to disturb the presumption of reasonableness that we apply to his sentence.

The judgment of the district court is
AFFIRMED.