

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 19, 2011

Lyle W. Cayce  
Clerk

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No. 10-20508  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MICHAEL SIMEON SADOWSKI,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:09-CR-616-1

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Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:\*

Michael Simeon Sadowski appeals as substantively unreasonable his 97-month sentence for possession of child pornography; he does not contest that the sentence falls within the applicable guidelines range. We review the substantive reasonableness of the sentence for an abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). This court has rejected Sadowski's argument that district courts err by giving credence to non-empirical Guidelines during sentencing. *See United States v. Mondragon-Santiago*, 564 F.3d 357, 366-67 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Cir. 2009) (holding that a sentence within the applicable guidelines range is entitled to a presumption of reasonableness even if the Guideline applied is not empirically grounded). By arguing that the district court erred in its 18 U.S.C. § 3553(a) analysis, Sadowski invites this court to engage in impermissible “substantive second-guessing of the sentencing court.” *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 767 (5th Cir. 2008). He fails to overcome the presumption of reasonableness afforded his sentence. *See United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006).

AFFIRMED.