IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
November 18, 2010
Lyle W. Cayce
Clerk

No. 10-40115
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALFREDO PEREZ-GUTIERREZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:09-CR-1193-1

Before JOLLY, GARZA, and STEWART, Circuit Judges.

PER CURIAM:[*]

Alfredo Perez-Gutierrez appeals the within-guidelines sentence imposed following his conviction for being an alien found unlawfully in the United States after a prior deportation. He contends that the district court improperly applied a presumption of reasonableness to his advisory guidelines range and failed to adequately explain its reasons for the sentence. Because he did not alert the district court to these arguments, they are reviewed under the plain error standard. *See United States v. King*, 541 F.3d 1143, 1144 (5th Cir. 2008); *United*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States v. Hernandez-Martinez, 485 F.3d 270, 272-73 (5th Cir. 2007). Perez-Gutierrez wishes to preserve for further review the issue whether a specific objection to the adequacy of the district court's explanation of the sentence is required in order to avoid plain error review of that issue on appeal.

Perez-Gutierrez's arguments are unavailing regardless of whether the plain error standard is applicable. The record does not reflect that the district court erred by applying a presumption in favor of a sentence within the guidelines range. *See King*, 541 F.3d at 1145. Additionally, the district court provided an adequate explanation of its reasons for the sentence, as its statements at sentencing indicate it concluded that a sentence within the guidelines range was appropriate after considering Perez-Gutierrez's arguments and the sentencing factors under 18 U.S.C. § 3553(a). *See Rita v. United States*, 551 U.S. 338, 358-59 (2007); *United States v. Rodriguez*, 523 F.3d 519, 525-26 (5th Cir. 2008).

Accordingly, the judgment of the district court is AFFIRMED.