

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-5038

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOSE LEPE-RODRIGUEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (CR-05-25)

Submitted: May 8, 2006

Decided: May 25, 2006

Before WILKINSON, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

U. Wilfred Nwauwa, LAW OFFICES OF U. WILFRED NWAUWA, Charlotte, North Carolina, for Appellant. Gretchen C. F. Shappert, United States Attorney, C. Nicks Williams, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jose Lepe-Rodriguez appeals the sixty-three-month sentence imposed following his guilty plea to reentry after deportation in violation of 8 U.S.C. § 1326(a), (b)(2) (2000). Lepe-Rodriguez challenges the reasonableness of his sentence, asserting that the district court erred in sentencing him in four ways: 1) the court failed to adequately explain its sentencing determination; 2) the court failed to consider all 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2005) factors in determining the sentence; 3) the court gave exclusive consideration to the Guideline* range, effectively rendering it mandatory; and 4) the court imposed a sentence greater than necessary to comply with the purposes of sentencing. We find, however, that the district court sentenced Lepe-Rodriguez only after appropriately considering and examining the Sentencing Guidelines and the § 3553(a) factors, as instructed by United States v. Booker, 543 U.S. 220 (2005).

"The district court need not discuss each factor set forth in § 3553(a) 'in checklist fashion'; 'it is enough to calculate the range accurately and explain why (if the sentence lies outside it) this defendant deserves more or less.'" United States v. Moreland, 437 F.3d 424, 432 (4th Cir. 2006) (quoting United States v. Dean, 414 F.3d 725, 729 (7th Cir. 2005)). The district court sentenced Lepe-Rodriguez within the applicable

*U.S. Sentencing Guidelines Manual (2004).

advisory Guideline range and well below the twenty-year statutory maximum set forth in 8 U.S.C. § 1326(b)(2). We cannot conclude that, under these circumstances, Lepe-Rodriguez's sentence is unreasonable. See United States v. Johnson, 445 F.3d 339, 345 (4th Cir. 2006); United States v. Green, 436 F.3d 449, 457 (4th Cir. 2006) (finding that sentence imposed within properly calculated advisory guidelines range is presumptively reasonable), cert. denied, __ U.S. __, 2006 WL 1057741 (U.S. May 22, 2006) (No. 05-10474).

Accordingly, we affirm the sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED