UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4996

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CIRILO MATA-ROSALES,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. James A. Beaty, Jr., Chief District Judge. (1:11-cr-00079-JAB-1)

Submitted: May 24, 2012 Decided: May 30, 2012

Before MOTZ and DAVIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Louis C. Allen III, Federal Public Defender, Mireille P. Clough, Assistant Federal Public Defender, Winston-Salem, North Carolina, for Appellant. Ripley Rand, United States Attorney, Angela H. Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cirilo Mata-Rosales appeals the seventy-eight-month sentence imposed following his guilty plea to illegal reentry by an alien who had been convicted of an aggravated felony, in violation of 8 U.S.C. § 1326(a), (b)(2) (2006). On appeal, Mata-Rosales challenges only the substantive reasonableness of his sentence, arguing that he rebutted the presumption of reasonableness afforded to his within-Guidelines sentence. Finding no error, we affirm.

In reviewing the substantive reasonableness of a sentence, we "take into account the totality of the circumstances." Gall v. United States, 552 U.S. 38, 51 (2007). If the sentence imposed is within the appropriate Sentencing Guidelines range, we presume it is reasonable. United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010). This presumption may be rebutted by a showing "that the sentence is unreasonable when measured against the [18 U.S.C.] § 3553(a) [(2006)] factors." United States v. Montes-Pineda, 445 F.3d 375, 379 (4th Cir. 2006) (internal quotation marks omitted). Upon review, we conclude that Mata-Rosales failed to rebut the presumption of reasonableness. Thus, the district court did not abuse its discretion in sentencing Mata-Rosales to seventy-eight months' imprisonment, a sentence within the applicable

Sentencing Guidelines range. See Gall, 522 U.S. at 51 (providing standard of review).

We therefore affirm the district court's judgment. 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