

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 18, 2012

**Elisabeth A. Shumaker
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ALFREDO CABRERA-ZETINA,

Defendant-Appellant.

No. 11-6237
(D.C. No. 5:10-CR-00360-D-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **TYMKOVICH, BALDOCK, and GORSUCH**, Circuit Judges.

Alfredo Cabrera-Zetina pled guilty to one count of unlawful reentry into the United States in violation of 8 U.S.C. § 1326. He argues on appeal that his above-guidelines sentence of 84-months imprisonment is substantively unreasonable.¹ We have jurisdiction under 18 U.S.C. § 3742 and 28 U.S.C. § 1291, and we affirm.

* After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ The guideline range was 33 to 41 months imprisonment.

“[S]ubstantive reasonableness addresses whether the length of the sentence is reasonable given all the circumstances of the case in light of the factors set forth in 18 U.S.C. § 3553(a).” *United States v. Huckins*, 529 F.3d 1312, 1317 (10th Cir. 2008) (quotation omitted). “[W]e review the reasonableness of sentencing decisions, whether inside, just outside, or significantly outside the Guidelines range, under a deferential abuse-of-discretion standard.” *Id.* (quotation and brackets omitted). “A district court abuses its discretion when it renders a judgment that is arbitrary, capricious, whimsical, or manifestly unreasonable.” *Id.* (quotation omitted).

Mr. Cabrera-Zetina has been deported to Mexico five times. He has fourteen criminal convictions in the United States, including a felony drug offense and two felony convictions for assault with a dangerous weapon.

We have examined the record and considered the parties’ briefs.² The district court considered all of the relevant factors under § 3553(a) and more than adequately explained the reasons for imposing an above-guidelines sentence.

Mr. Cabrera-Zetina’s arguments that the court somehow abused its discretion are without merit.

We AFFIRM the district court’s sentence.

Entered for the Court

Bobby R. Baldock
Circuit Judge

² We have little doubt as to why Mr. Cabrera-Zetina did not request oral argument.