

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

November 4, 2005

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

No. 04-3586

UNITED STATES OF AMERICA,
Plaintiff -Appellee,

v.

GERVACIO RODRIGO-ABAD,
Defendant-Appellant.

Appeal from the United States
District Court for the Southern
District of Indiana

No. 1:04CR00035-001

Larry J. McKinney,
Chief Judge.

O R D E R

On limited remand under *United States v. Paladino*, 401 F.3d 471 (7th Cir. 2005), the district court responded that it would have given Gervacio Rodrigo-Adab “the same sentence had the guidelines been advisory at the time of sentencing.” We invited the parties to file memoranda addressing the district court’s statement, but neither did so. Rodrigo-Abad’s 121-month sentence, which is only one month greater than the applicable statutory minimum of 120 months, is within his guideline range and therefore presumptively reasonable. *See United States v. Mykytiuk*, 415 F.3d 606 (7th Cir. 2005). His failure to respond leaves that presumption un rebutted. Our independent review does not suggest the sentence is unreasonable and, thus, we AFFIRM the judgement.