

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

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

May 19, 2006

Before

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DANIEL A. MANION, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

No. 04-2404

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JOSE J. FERNANDEZ-REYES,
Defendant-Appellant.

Appeal from the United States
District Court for the Northern
District of Illinois, Eastern Division.

No. 03 CR 15-1

Joan Humphrey Lefkow,
Judge.

O R D E R

Jose Fernandez-Reyes pleaded guilty to reentering the United States without permission of the Attorney General after being deported to Mexico following a conviction for an aggravated felony, 8 U.S.C. § 1326(a), (b)(2). The district court sentenced him to 80 months' imprisonment and three years' supervised release. Thereafter, we ordered a limited remand under *United States v. Paladino*, 401 F.3d 471 (7th Cir. 2005), so that the district court could tell us whether it would have imposed the same sentence knowing that the sentencing guidelines were only advisory.

After reviewing the appropriate considerations under 18 U.S.C. § 3553(a), the district court has responded that it would not have sentenced Fernandez-Reyes

differently. Fernandez-Reyes did not respond to our invitation to file arguments concerning the appropriate disposition of the appeal in light of the district court's decision. The government did respond, however, and asks that we affirm.

Fernandez-Reyes's sentence of 80 months' imprisonment is within the guidelines range of 77 to 96 months. It is therefore presumptively reasonable, *United States v. Spano*, 2006 WL 1230331, at *1 (7th Cir. May 9, 2006); *United States v. Mykytiuk*, 415 F.3d 606, 608 (7th Cir. 2005), and Fernandez-Reyes has not even attempted to rebut the presumption. Moreover, the district court thoroughly explained why the sentencing purposes of restraint and deterrence make a sentence within the guidelines range appropriate. The sentence is AFFIRMED.