

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-2736

United States of America,

Appellee,

v.

Alejandro Lopez-Zenteno, also known
as Alex Lopez, also known as Jose
Ramirez Perez,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Minnesota.
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* [UNPUBLISHED]
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Submitted: April 19, 2012
Filed: April 23, 2012

Before LOKEN, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Alejandro Lopez-Zenteno appeals the 24-month prison sentence imposed upon him by the district court¹ after he pled guilty to unlawful re-entry after removal, in violation of 8 U.S.C. § 1326(a), (b)(2) and 6 U.S.C. §§ 202 and 557. After calculating an advisory Guidelines range of 46-57 months in prison, the district court considered the mitigating factors presented by Lopez-Zenteno – most specifically,

¹The Honorable Joan N. Ericksen, United States District Judge for the District of Minnesota.

that he had demonstrated positive change – and sentenced Lopez-Zenteno below the Guidelines range, to 24 months in prison and 3 years of supervised release. Lopez-Zenteno’s counsel has filed a brief under *Anders v. California*, 368 U.S. 738 (1967), and seeks leave to withdraw. Counsel argues that the district court’s sentence was greater than necessary to accomplish the goals of sentencing and therefore was substantively unreasonable.

This court concludes that the district court imposed a substantively reasonable sentence. *See United States v. Elodio-Benitez*, 2012 WL 686194, at *1 (8th Cir. Mar. 5, 2012) (rejecting substantive reasonableness challenge to “significant downward variance” in sentencing illegal re-entry defendant). As noted in *Elodio-Benitez*, “where a district court has sentenced a defendant below the advisory guidelines range, it is nearly inconceivable that the court abused its discretion in not varying downward still further.” *See id.* (quoting *United States v. Moore*, 581 F.3d 681, 684 (8th Cir. 2009)).

Having reviewed the record independently under *Penson v. Ohio*, 488 U.S. 75 (1988), this court finds no nonfrivolous issues for review. The judgment is affirmed and counsel’s motion to withdraw is granted.
