

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13791
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NOE ALEXANDER FLORES VASQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 1:25-cr-00021-AW-MAL-1

Before JORDAN, LUCK, and KIDD, Circuit Judges.

PER CURIAM:

Noe Alexander Flores Vasquez pleaded guilty to illegal reentry after a felony conviction. He was sentenced to forty-two

months' imprisonment. On appeal, he argues that his sentence was substantively unreasonable. After careful review, we affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Flores Vasquez is a Honduran national. He was removed and deported three times, in 2013, 2017, and 2022, and reentered sometime afterward. In 2024, he was arrested in Alachua County, Florida, for aggravated battery with a deadly weapon, assault, felony battery as a repeat offender, and resisting an officer without violence.

After Flores Vasquez was convicted of the latter three charges and served his sentence, he was taken into custody by federal immigration authorities. Ultimately, Flores Vasquez was charged with and pleaded guilty to illegal reentry, in violation of 8 U.S.C. sections 1326(a) and (b)(1). The presentence investigation report prepared by the probation office recommended a range of eighteen to twenty-four months' imprisonment, based on a total offense level of thirteen and a criminal history category of three.

Before sentencing, Flores Vasquez requested a guideline sentence. At his sentencing hearing, he highlighted his "significant" mental health history, arguing that his "[m]ultiple visits to . . . mental health facilities" contributed to his criminal history and "substance abuse." He also said he had his family's support and intended to return to Honduras with them after completing his sentence.

The government, for its part, identified "information on both sides that the [c]ourt should consider." It "agree[d] with a lot

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of what [the defendant] ha[d] said,” acknowledging that Flores Vasquez had “agreed to an information . . . which [was] helpful,” “[t]imely accepted responsibility,” and “even . . . admitted to unlawfully entering and knowing that he was not supposed to be here, and that he made no efforts to apply for re-admission.” The government also noted Flores Vasquez’s “mental health issues” and resistance to recruitment efforts by a cartel.

On the other hand, the government cited Flores Vasquez’s criminal history. This included his repeated unlawful entries into the country after being removed in 2013, 2017, and 2022. It also included his arrests in 2016 for fondling a female victim in her sleep and in 2021 for hitting his then girlfriend, now wife, in the face. And it included his two battery convictions in 2022 and 2025. The first conviction, which resulted in administrative probation, was from a 2021 incident in which Flores Vasquez bit a police officer attempting to restrain him while he was transported to a mental health facility. The second conviction, for which Flores Vasquez served 233 days in county jail, was from the 2024 Alachua County incident in which he bit and swung a frying pan at the head of a family friend, “seem[ingly] completely unprovoked.”

After considering the guideline range, the parties’ statements, and “all of the [18 U.S.C. section] 3553(a) factors,” the district court imposed an upward variance of eighteen months, sentencing Flores Vasquez to forty-two months’ imprisonment. The district court explained that the “biggest factor here . . . [was] de-

terrence” and that a guideline sentence “would [have] be[en] insufficient” to deter Flores Vasquez from future criminal conduct, protect the public, and “promote respect for the rule of law.” In weighing the sentencing factors, the district court referenced Flores Vasquez’s criminal history; his “multiple removals”; his “two prior convictions for the same offense,” illegal reentry; and his “convictions related to violence while in the United States.”

Even accounting for the mitigating circumstances in Flores Vasquez’s background, the district court explained that a “guideline sentence would [have] be[en] insufficient” to satisfy the purposes of sentencing because of the seriousness and frequency of Flores Vasquez’s past crimes. That was because, even though Flores Vasquez had “mental health issues” and “resist[ed] joining a cartel in his native country,” he continued to illegally reenter the United States and reoffend. So, even though he “waiv[ed] [] the indictment,” “accept[ed] [] responsibility,” and “admitted everything early on” this time, the district court still decided a greater deterrent effect was needed. In fact, “but for the mitigation that both sides talked about,” the district court explained, it would have imposed a “greater variance.”

STANDARD OF REVIEW

We review the substantive reasonableness of a sentence under a deferential abuse-of-discretion standard considering the totality of the circumstances. *Gall v. United States*, 552 U.S. 38, 41 (2007).

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DISCUSSION

Flores Vasquez argues the district court's upward variance was substantively unreasonable. We are not convinced.

We will vacate a sentence as substantively unreasonable “if, but only if, we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the [section] 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case.” *United States v. Riley*, 995 F.3d 1272, 1278 (11th Cir. 2021) (citation modified). “The party challenging a sentence has the burden of showing that the sentence is unreasonable in light of the entire record, the [section] 3553(a) factors, and the substantial deference afforded sentencing courts.” *United States v. Rosales-Bruno*, 789 F.3d 1249, 1256 (11th Cir. 2015).

The district court made no clear error of judgment here. After fully considering “all of the [section] 3553(a) factors,” the district court found that the forty-two-month sentence was “sufficient, but not greater than necessary, to comply with the statutorily-defined purposes of sentencing.” In doing so, the district court cited Flores Vasquez's repeated removals, prior convictions for the same offense, and past violent conduct.

While these reasons implicated several section 3553(a) factors, including the nature and circumstances of the offense, Flores Vasquez's history and characteristics, and the need to protect the public from future crimes and promote respect for the law, the dis-

district court identified deterrence as the “biggest factor” and determined that a guideline sentence would not be sufficient to deter future misconduct. *See* 18 U.S.C. § 3553(a)(1), (a)(2)(B)–(C). The district court was well within its discretion to make that call. *See Riley*, 995 F.3d at 1278; *United States v. Shaw*, 560 F.3d 1231, 1232, 1239–41 (11th Cir. 2009) (affirming a variance from a guideline range of thirty to thirty-seven months to the 120-month statutory maximum for a defendant whose “continuous criminal career” had never been deterred by shorter sentences).

In response, Flores Vasquez contends that the district court gave inadequate weight to two particular mitigating circumstances: his “imminent deportation” and his promise to return to Honduras with his family. But the district court considered all the mitigating circumstances when it acknowledged that “[it] would have imposed a greater variance but for the mitigation that both sides talked about.” The earlier removals hadn’t deterred Flores Vasquez from illegally reentering the country and committing additional crimes. It was within the district court’s discretion to weigh Flores Vasquez’s “prior removals and . . . convictions” more heavily than the mitigating circumstances.

In sum, we are satisfied that the district court did what it was supposed to do. It properly weighed the sentencing factors and imposed a sentence within the “range of reasonable sentences dictated by the facts of the case.” *See Riley*, 995 F.3d at 1278 (citation modified). That was not an abuse of discretion.

AFFIRMED.