

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

June 14, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE MANUEL LOPEZ-RODRIGUEZ,

Defendant - Appellant.

No. 22-2136
(D.C. No. 2:22-CR-01048-MIS-1)
(D. N.M.)

ORDER AND JUDGMENT*

Before **HARTZ, BALDOCK, and ROSSMAN**, Circuit Judges.**

Defendant Jose Manuel Lopez-Rodriguez entered a blind plea to reentry of a removed alien in violation of 8 U.S.C. § 1326(a) and (b). The district court sentenced Defendant to 24-months’ imprisonment, the high end of the advisory guideline range, and recommended that ICE begin removal proceedings while Defendant served his sentence. Defendant informed his appointed counsel, an assistant federal public defender, that he wished to appeal his sentence. Now before

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

the Court is appointed counsel's *Anders* brief and motion to withdraw. *Anders v. California*, 386 U.S. 738 (1967). In her brief, counsel addresses Defendant's guilty plea as well as the district court's calculation of the advisory guideline range and imposition of sentence. Defendant has not filed a response to his counsel's brief.

Our jurisdiction arises under 28 U.S.C. § 1291. Having reviewed counsel's brief and the appellate record in its entirety, we conclude Defendant's guilty plea was knowing and voluntary and the sentence the district court imposed was within the properly calculated guideline range and both procedurally and substantively reasonable under governing law. Because any appeal of his sentence that Defendant might pursue would lack merit, we commend counsel's forthrightness and decision to proceed in accordance with *Anders*. Accordingly, we AFFIRM the judgment of the district court and ALLOW counsel's motion both on behalf of herself and the Federal Public Defender's Office to withdraw. Defendant's pending motion asking for his appointed counsel's withdraw is DENIED AS MOOT.

Entered for the Court

Bobby R. Baldock
Circuit Judge