

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 9, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN MIRANDA-ESPINOZA,

Defendant - Appellant.

No. 25-6166
(D.C. No. 5:25-CR-00130-JD-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **MORITZ**, and **FEDERICO**, Circuit Judges.

Martin Miranda-Espinoza appeals his above-Guidelines sentence as substantively unreasonable, asserting that the district court did not adequately consider whether it created an unwarranted sentencing

* 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.

This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

disparity with sentences imposed upon similar defendants. Exercising jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a), we affirm.

I

Miranda-Espinoza is a citizen of Mexico who was removed from the United States in 2013 and 2018. He has not been authorized to return to the United States. But in March 2025, federal agents discovered that he had been booked into a jail in Oklahoma City, Oklahoma, for domestic assault and battery by strangulation and burglary in the first degree. After being charged in federal court with one count of illegally reentering the United States after being removed, in violation of 8 U.S.C. § 1326(a), he pleaded guilty without a plea agreement.

The district court determined the total offense level was 18 and the criminal history category was V, resulting in an advisory Guidelines range of 51 to 63 months. Miranda-Espinoza requested a sentence at the low end of the Guidelines range, while the government requested one at the high end. The district court upwardly varied above the Guidelines and imposed a sentence of 84 months' imprisonment, with no supervision to follow.

Miranda-Espinoza timely appealed.

II

Miranda-Espinoza raises one issue on appeal – whether the sentence is substantively unreasonable. “Substantive reasonableness considers

whether the length of the sentence is reasonable given all the circumstances of the case in light of the factors set forth in 18 U.S.C. § 3553(a).” *United States v. Guevara-Lopez*, 147 F.4th 1174, 1183 (10th Cir. 2025) (internal quotation marks omitted).

“We review a district court’s decision for substantive reasonableness under an abuse-of-discretion standard, looking at the totality of the circumstances. A district court abuses its discretion when it renders a judgment that is arbitrary, capricious, whimsical, or manifestly unreasonable.” *Id.* at 1183-84 (citation and internal quotation marks omitted). In reviewing an upward variance, we “consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” *Id.* at 1184 (internal quotation marks omitted). But we do not reweigh the § 3553(a) factors. *United States v. Blair*, 933 F.3d 1271, 1274 (10th Cir. 2019). Instead, we “ask whether the sentence fell within the range of rationally available choices that facts and the law at issue can fairly support.” *Id.* (internal quotation marks omitted).

The 84-month sentence was 21 months more than the high end of the Guidelines range, resulting in a sentence that was 133% of a high-end Guidelines sentence. Miranda-Espinoza argues the sentence was substantively unreasonable because the district court failed to meaningfully consider whether its upward variance avoided an

unwarranted sentence disparity. *See* § 3553(a)(6) (directing courts to consider “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct”).

At sentencing, the district court explicitly addressed various § 3553 factors. Regarding sentence disparities, it stated:

Finally, I’ve considered the needs of the sentence to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

Because I am focused on sentencing you as an individual and the Section 3553(a) factors as applied to you, and I am imposing a sentence that is sufficient but not greater than necessary, I do not believe any unwarranted disparities will result. If there are disparities in your case, they are warranted based on my individual assessment. The sentencing guideline range is advisory and only one among several factors to consider.

R. III at 96-97.

Miranda-Espinoza argues that “an examination of what the court said reveals that the court could not have adequately considered the disparities and was unaware if its sentence would create a disparity or not,” Op. Br. at 13-14, because there is no record evidence regarding potential disparities. He points to information from the Sentencing Commission’s Judicial Sentencing Information (JSIN) platform to show that there was, in fact, a sentence disparity. And he compares his case to *Guevara-Lopez*, in which this court vacated an above-Guidelines sentence as substantively

unreasonable in part because the court did not adequately consider disparities, *see* 147 F.4th at 1192.

But our precedent acknowledges the “general rule that when a court considers what the guidelines sentence (or sentencing range) is, it necessarily considers whether there is a disparity between the defendant’s sentence and the sentences imposed on others for the same offense.” *United States v. Gantt*, 679 F.3d 1240, 1248-49 (10th Cir. 2012); *see also United States v. Dias*, 174 F.4th 1266, 1282 (10th Cir. 2026) (“[A] district court satisfies its duty to consider potential unwarranted sentencing disparities so long as it correctly calculates the Guidelines range and explains the need for a sentence above that range.”). We do not require courts to use any “magic words” at sentencing, *United States v. Lucero*, 130 F.4th 877, 887-88 (10th Cir. 2025) (internal quotation marks omitted). And we have upheld variances when the district court used similar language as here. *Compare id.* at 887 (noting “[t]he sentencing judge . . . acknowledged that even ‘if there was a sentencing disparity, it is warranted by [the defendant’s] actions in this case and his long criminal history and prior criminal conduct’” (brackets and ellipses omitted)) *with* R. III at 97 (“If there are disparities . . . they are warranted . . .”).

Unlike in *Guevara-Lopez*, Miranda-Espinoza did not inform the district court of the JSIN data or make an argument regarding sentence

disparities. He suggests that a district court must identify evidence or data regarding sentencing disparities to be deemed to have adequately considered § 3553(a)(6), *see* Op. Br. at 15-17, 19; Reply Br. at 6, 10-11, even if the parties do not present any such evidence, *see* Reply Br. at 14, 17-18. But “we do not require the district courts to consult Sentencing Commission data before imposing a sentence, nor do we require district courts to follow national statistics when imposing a sentence.” *Guevara-Lopez*, 147 F.4th at 1188.

We have discretion to take judicial notice of the JSIN data, although generally we “focus on what the parties had presented in district court; after all, the court couldn’t abuse its discretion by failing to consider facts not presented.” *United States v. Doty*, 150 F.4th 1351, 1357 (10th Cir. 2025) (internal quotation marks omitted). We are not persuaded that the JSIN data demonstrates an abuse of discretion in this case. “[B]are national statistics do not shed light on the extent to which the sentences that the statistics pertain to involve defendants that are similarly situated to [the defendant].” *United States v. Garcia*, 946 F.3d 1191, 1215 (10th Cir. 2020). Where, as here, a defendant points to JSIN data but “fails to show how he is similarly situated with those of the national average,” we have held that “Tenth Circuit precedent forecloses Defendant’s disparity argument.” *United States v. Cortez*, 139 F.4th 1146, 1156 (10th Cir. 2025).

Further, “[e]ven if the district court had the benefit of the new evidence, it wouldn’t show an unwarranted disparity between the sentences imposed on [Miranda-Espinoza] and similarly situated offenders.” *Doty*, 150 F.4th at 1357. In explaining its sentence, the district court discussed several circumstances that “would have provided a sensible basis to reject the national average as a benchmark.” *Id.* at 1358. The district court’s extensive explanation of its decision distinguishes this case from *Guevara-Lopez*. As we recently stated:

Guevara-Lopez instructs us that JSIN statistics can heighten our concerns in situations where the district court fails to provide an adequate explanation. That’s not the case here. Where, as here, the district court makes an individualized assessment of the defendant and justifies the upward variance, bare national statistics that tell us nothing personalized about the defendant do not aid us.

United States v. Zamora-Guerra, 169 F.4th 1026, 1036 (10th Cir. 2026) (citation omitted).

First, the court discussed the conduct leading up to the government’s discovery that Miranda-Espinoza was present in the United States. He was arrested for domestic assault and battery by strangulation and burglary in the first degree. The information before the court was that his ex-girlfriend reported he had shown up at her residence. When she tried to run inside, he followed her and pushed the door open so that she fell. He then got on top of her, grabbed her by the throat, and slapped her. When she tried to

call for help, he took her phone, got on top of her, and again grabbed her by the throat and yelled at her. Officers observed she had visible injuries to her neck and dried blood in her nose.

Second, the court was concerned about recidivism. After being removed in 2013, Miranda-Espinoza returned to the United States without authorization. He was convicted in 2015 of being a removed alien found in the United States and was sentenced to 46 months' imprisonment and three years' supervised release. Yet, that sentence did not deter him from again entering the United States without authorization.

Third, the district court highlighted Miranda-Espinoza's "criminal history and the types of crimes [he has] been convicted of or arrested for particularly because [he is] still young, in [the court's] view, at age 38." R. III at 90. The court recognized that, in addition to illegal reentry, he had "adult convictions involving possession of methamphetamine; driving under the influence of alcohol or drugs, which included methamphetamine; hit-and-run with property damage; burglary in the second degree; burglary, second degree, commercial structure; stalking; kidnapping; domestic abuse with corporal injury; attempted kidnapping; and violation of protective order." *Id.* The court also noted that in addition to these convictions, the presentence investigation report listed "five or six pages of arrests for a

variety of offenses, including assault; burglary; theft; kidnapping; and domestic offenses . . . ; and protective orders over domestic incidents.” *Id.*

Fourth and finally, the district court recognized that while he was detained awaiting sentencing, Miranda-Espinoza attacked another detainee. Video of this “disturbing incident” showed him “repeatedly kicking [the victim] in the head or head area while he was being held or pinned down by another inmate.” *Id.* at 90-91. The district court found that “being in custody while awaiting this sentence has not been sufficient to deter [him] from criminal conduct” and that his “actions display a complete disregard for human life and the dignity of human life . . . , which suggests public safety is at risk as [he has] exposed fellow inmates to violence and danger.” *Id.*

Given these circumstances, the district court’s upward variance was not an abuse of discretion. *See Cortez*, 139 F.4th at 1154 (upholding 33-month upward variance as justified by illegal-reentry defendant’s criminal history, which “reveal[ed] a *pattern* of violent conduct within the United States”); *United States v. Vazquez-Garcia*, 130 F.4th 891, 903 (10th Cir. 2025) (upholding 18-month upward variance in illegal-reentry case as justified by conduct underlying prior child-abuse conviction, which was relevant to multiple § 3553(a) factors); *see also United States v. Lente*, 759 F.3d 1149, 1169 (10th Cir. 2014) (“Our sentencing scheme seeks to eliminate

not all sentencing disparities, but only unwarranted disparities.” (internal quotation marks omitted)).

In sum, “[t]he district court’s sentencing decision in this case was not some random, unthoughtful, unexplained sentence. The district court was thorough and considered the statutory-sentencing objectives. The district court’s sentence was well-reasoned and within the bounds of permissible choice.” *United States v. Valdez*, 128 F.4th 1314, 1318 (10th Cir. 2025). Miranda-Espinoza has not established that the district court abused its discretion.

AFFIRMED.

Entered for the Court

Richard E.N. Federico
Circuit Judge