
IN THE SUPREME COURT OF THE UNITED STATES

18-

RINGO RECTO LABRADOR,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

APPENDIX

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Northern District of Texas

APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-11008
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 8, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RINGO RECTO LABRADOR,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:17-CR-41-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Ringo Recto Labrador appeals the 135-month, within-guidelines sentence he received following his guilty plea conviction for possession with intent to distribute methamphetamine. He challenges the district court's guidelines calculations, which would constitute a procedural error. *See Gall v. United States*, 552 U.S. 38, 51 (2007). A district court commits a procedural error, and thus "abuses its discretion[,] if it bases its decision on an error of law

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

or a clearly erroneous assessment of the evidence.” *United States v. Castillo*, 430 F.3d 230, 238-39 (5th Cir. 2005) (internal quotation marks and citation omitted). We review a challenge to the district court’s interpretation of the Guidelines de novo, while we consider for clear error a claim of mistaken factual findings or a misapplication of the Guidelines to those factual findings. *United States v. Lyckman*, 235 F.3d 234, 237 (5th Cir. 2000). Additionally, Labrador challenges the substantive unreasonableness of his sentence. We review this contention for an abuse of discretion. *Gall*, 552 U.S. at 51.

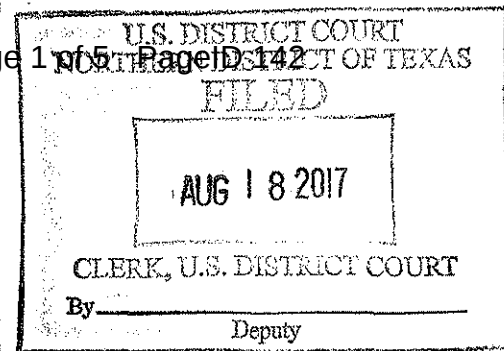
In his first ground for relief, Labrador contends that the district court erred by including in the relevant drug quantity amounts reportedly sold by him to an unnamed confidential source. He maintains that there was insufficient corroboration to establish the reliability of the source’s description of those sales. Generally, a presentence report has sufficient indicia of reliability and may be adopted without further inquiry if it has an adequate evidentiary basis and the defendant does not rebut the facts therein or otherwise show that it is unreliable. *United States v. Harris*, 702 F.3d 226, 230 (5th Cir. 2012). A district court may consider out-of-court declarations by an unidentified confidential informant if there is good cause for the nondisclosure of the informant’s identity and there is sufficient corroboration by other means to make the information reasonably reliable. U.S.S.G. § 6A1.3, p.s., comment.; *United States v. Rogers*, 1 F.3d 341, 343-44 (5th Cir. 1993). The confidential source reported that he had purchased methamphetamine and marijuana from Labrador over a period of several years. The presentence report indicates that the officers corroborated the confidential source’s description of the interior and exterior of Labrador’s residence, used a phone number provided by the source to set up a controlled purchase in Labrador’s home, and obtained evidence that Labrador sold both methamphetamine and marijuana. Such

corroboration was sufficient to render the information from the source reliable for sentencing purposes. *See United States v. Young*, 981 F.2d 180, 185-86 (5th Cir. 1992).

In addition, Labrador contends that his within-guidelines sentence is substantively unreasonable because the methamphetamine Guideline is not based on empirical evidence. His assertion is foreclosed by this court's precedent. *See, e.g., United States v. Mondragon-Santiago*, 564 F.3d 357, 366-67 (5th Cir. 2009). Labrador has not shown the district court failed to give proper weight to any 18 U.S.C. § 3553(a) factor. *See United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009). Thus, he fails to rebut the presumption of reasonableness applicable to his sentence. *See Mondragon-Santiago*, 564 F.3d at 360.

The judgment of the district court is thus **AFFIRMED**.

APPENDIX B

United States District CourtNorthern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA §

v. §

RINGO RECTO LABRADOR §

Case Number: 4:17-CR-041-A(01)

JUDGMENT IN A CRIMINAL CASE

The government was represented by Assistant United States Attorney Christopher Wolfe. The defendant, RINGO RECTO LABRADOR, was represented by Federal Public Defender through Assistant Federal Public Defender Cody Cofer.

The defendant pleaded guilty on May 5, 2017 to the one count indictment filed on March 15, 2017. Accordingly, the court ORDERS that the defendant be, and is hereby, adjudged guilty of such count involving the following offense:

Title & Section / Nature of Offense

21 U.S.C. § 841(a)(1) and (b)(1)(C)

Possession with Intent to Distribute Methamphetamine

Date Offense Concluded

February 16, 2017

Count

1

As pronounced and imposed on August 18, 2017, the defendant is sentenced as provided in this judgment.

The court ORDERS that the defendant immediately pay to the United States, through the Clerk of this Court, a special assessment of \$100.00.

The court further ORDERS that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence address, or mailing address, as set forth below, until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court, through the clerk of this court, and the Attorney General, through the United States Attorney for this district, of any material change in the defendant's economic circumstances.

IMPRISONMENT

The court further ORDERS that the defendant be, and is hereby, committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 135 months.

The defendant is remanded to the custody of the United States Marshal.

SUPERVISED RELEASE

The court further ORDERS that, upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years. The court imposed a term of supervised release because it will provide an added measure of deterrence and protection based on the facts and characteristics of the case.

Pursuant to 18 U.S.C. §3583(d), as a condition of supervised release, upon the completion of the sentence of imprisonment the defendant shall be surrendered by the Federal Bureau of Prisons to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. As a further condition of supervised release, if ordered deported the defendant shall remain outside the United States.

In the event the defendant is not deported immediately upon release from imprisonment, or should the defendant ever be within the United States during any portion of the term of supervised release, the defendant shall comply with the following conditions:

1. The defendant shall not unlawfully possess a controlled substances.
2. The defendant shall not commit another federal, state, or local crime.
3. The defendant shall cooperate in the collection of DNA as directed by the U.S. Probation Officer, as authorized by the Justice for All Act of 2004.
4. The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered at a rate of at least \$15 per month.
5. The defendant shall refrain from any unlawful use of a controlled substance, submitting to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer pursuant to the mandatory drug testing provision of the 1994 crime bill.
6. The defendant shall participate in a program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered at the rate of at least \$15 per month.
7. The defendant shall also comply with the Standard Conditions of Supervision as hereinafter set forth.

Standard Conditions of Supervision

1. The defendant shall report in person to the probation office in the district to which the defendant is released within seventy-two (72) hours of release from the custody of the Bureau of Prisons.
2. The defendant shall not possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall provide to the U.S. Probation Officer any requested financial information.
4. The defendant shall not leave the judicial district where the defendant is being supervised without the permission of the Court or U.S. Probation Officer.
5. The defendant shall report to the U.S. Probation Officer as directed by the court or U.S. Probation Officer and shall submit a truthful and complete written report within the first five (5) days of each month.
6. The defendant shall answer truthfully all inquiries by the U.S. Probation Officer and follow the instructions of the U.S. Probation Officer.
7. The defendant shall support his dependents and meet other family responsibilities.
8. The defendant shall work regularly at a lawful occupation unless excused by the U.S. Probation Officer for schooling, training, or other acceptable reasons.
9. The defendant shall notify the probation officer at least ten (10) days prior to any change in residence or employment.
10. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
11. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
12. The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the U.S. Probation Officer.
13. The defendant shall permit a probation officer to visit him at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the U.S. Probation Officer.
14. The defendant shall notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer.
15. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.

16. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

The court hereby directs the probation officer to provide defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, as contemplated and required by 18 U.S.C. § 3583(f).

FINE

The court did not order a fine because the defendant does not have the financial resource or future earning capacity to pay a fine.

STATEMENT OF REASONS

The "Statement of Reasons" and personal information about the defendant are set forth on the attachment to this judgment.

Signed this the 18th day of August, 2017.



JOHN McBRYDE
UNITED STATES DISTRICT JUDGE

RETURN

I have executed the imprisonment part of this Judgment as follows:

Defendant delivered on _____, 2017 to _____
at _____, with a certified copy of this Judgment.

United States Marshal for the
Northern District of Texas

By _____
Deputy United States Marshal