

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JUN 27 1997

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiffs-Appellees,

v.

VICTOR MANUEL PRIETO-LOERA,
aka Manuel Torres-Loera, aka Victor
Lugo, aka Victor Lua,

Defendant-Appellant.

Case No. 96-4160

(D.C. 96-CR-150)
(District of Utah)

ORDER AND JUDGMENT*

Before ANDERSON, HENRY, and BRISCOE, Circuit Judges.

After examining the briefs and appellate record, this panel has unanimously determined that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1.9. 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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Defendant Victor Prieto-Loera appeals a 57-month sentence imposed after a plea of guilty to one count of unlawful re-entry by a deported alien, in violation of 8 U.S.C. § 1326. Mr. Prieto-Loera's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that, in her opinion, there are no meritorious grounds for appeal. This court ordered Mr. Prieto-Loera to respond to counsel's Anders brief on or before March 7, 1997, and to date, he has failed to do so.

We have engaged in a thorough search of the record and are convinced that Mr. Prieto-Loera's counsel has done the same. We agree with counsel that there are no meritorious grounds for appeal. According to counsel, Mr. Prieto-Loera "feels that 57 months is too long of a sentence for the type of crime he committed." Aplt.'s Br. at 2. Apparently, Congress and the Sentencing Commission feel otherwise; Mr. Prieto-Loera's 57-month sentence is within the guideline range for his offense level and criminal history category. Accordingly, we GRANT counsel leave to withdraw, and DISMISS the appeal. See Penson v. Ohio, 488 U.S. 75, 80 (1988). The mandate shall issue forthwith.

Entered for the Court,

Robert H. Henry
Circuit Judge