
NO. 01-2302

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

UNITED STATES OF AMERICA,
Appellee,

vs.

JOSE MANUEL GARCIA-GARCIA,
Appellant.

AN APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HONORABLE RICHARD G. KOPF, JUDGE,
UNITED STATES DISTRICT COURT

BRIEF OF APPELLANT
(Filed pursuant to Anders v. California)

JOSE MANUEL GARCIA-GARCIA, Appellant,

DAVID R. STICKMAN

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SUMMARY AND WAIVER OF ORAL ARGUMENT

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I. THE DISTRICT COURT ERRED IN DENYING GARCIA-GARCIA
A DOWNWARD ADJUSTMENT FOR EXTRA-ORDINARY
ACCEPTANCE TO RESPONSIBILITY TYPICAL ILLEGALLY

TABLE OF AUTHORITIES

Cases

Anders v. California, 386 U.S. 738 (1967)

Sentencing Guidelines

U.S.S.G. § 2K2.0 1

U.S.S.G. § 2L1.2 1, 3, 4

U.S.S.G. § 3E1.1 1nes

JURISDICTIONAL STATEMENT

1. Jose M. Garcia-Garcia appeals from th5.75 dgment including sentenc

STATEMENT OF THE CASE

Jose M. Garcia-Garcia was indicted for illegal reentry into the United States following deportation, a violation of 8 U.S.C. § 1326. Pursuant to a plea agreement, Mr. Garcia-Garcia pled guilty to the charge. In return, the government agreed to make no

sentencing Mr. Serrano-Sanchez to 77 months imprisonment. The district court's sentence forms the basis of this appeal.

STATEMENT OF FACTS

Mr. Garcia-Garcia was born in Valle Banderas, Nayarit, Mexico in 1954, and is the youngest of five children. (PSR ¶ 73) After receiving only a fifth grade education and working menial jobs, Mr. Garcia-Garcia began to travel between Mexico and the United States in the mid-1980s.

While in the United States, Mr. Garcia-Garcia developed a criminal record, including convictions for conspiracy to commit delivery of a controlled substance and possession

INS was contacted and took Mr. Garcia-Garcia into custody. (PSR ¶ 1) The INS linked Mr. Garcia-Garcia to his previous deportations and discovered that he had not obtained permission to reenter the United States. (PSR ¶ 2) This evidence was presented to a grand jury, which indicted Mr. Garcia-Garcia for his illegal reentry. On November 22, 2000, Mr. Garcia-Garcia was arrested by the U.S. Marshal.

On January 29, 2001, Mr. Garcia-Garcia entered into a plea agreement with the United States. In exchange for Mr. Garcia-Garcia's plea of guilty, the government stipulated

¹"Sent. Tr." refers to the transcript of Mr. Garcia-Garcia's sentencing

STANDARD OF REVIEW

When review of a federal sentence is available, this Court reviews the district court's interpretation of the sentencing guidelines *de novo*, and the factual findings supporting its sentencing

Mr. Garcia-Garcia seeks reversal of his 77-month sentence on the grounds that

it

Although Mr. Garcia-Garcia may simply believe that a lower sentence below the

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CERTIFICATE OF SERVICE

DAVID R. STICKMAN, after being first duly sworn states:

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JOSE MANUEL GARCIA-GARCIA,
Appellant,

By _____

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