

# United States Court of Appeals For the First Circuit

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No. 24-1013

UNITED STATES,

Appellee,

v.

JOSÉ MANUEL GONZÁLEZ,

Defendant, Appellant.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

[Hon. Francisco A. Besosa, U.S. District Judge]

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Before

Barron, Chief Judge,  
Breyer,\* Associate Justice,  
Gelpí, Circuit Judge.

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Marie L. Cortés-Cortés was on brief, for appellant.  
Maarja T. Luhtaru, Assistant United States Attorney, with  
whom W. Stephen Muldrow, United States Attorney, and Mariana E.  
Bauzá-Almonte, Assistant United States Attorney, Chief, Appellate  
Division, were on brief, for appellees.

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September 4, 2026

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\* Hon. Stephen G. Breyer, Associate Justice (Ret.) of the  
Supreme Court of the United States, sitting by designation.

**GELPÍ, Circuit Judge.** José Manuel González ("González" or "Appellant") participated in a drug venture off the coast of Puerto Rico. After being indicted, he pled guilty to four drug-related counts and was ultimately sentenced to 135 months of imprisonment. González now appeals his sentence, claiming that it is both procedurally and substantively unreasonable. For the following reasons, we **affirm** in part, **vacate** in part, and **remand** for further proceedings as described herein.

## **I. BACKGROUND**

### **A. Facts**

Because González pleaded guilty, "we draw the facts from the undisputed sections of the presentence investigation report (PSR) and the transcripts of the change-of-plea and sentencing hearings." United States v. Burgos, 133 F.4th 183, 187 n.1 (1st Cir. 2025) (citation modified).

González was born and raised in the Dominican Republic. There, he worked as a fisherman and completed other odd jobs for twenty-three years. That was, until 2022, when a Colombian fisherman known as "El Negro" offered González \$80,000 to participate in a drug smuggling venture. González agreed and was sent 3 million Colombian pesos to hold him over until the venture began. Before his departure, González was provided with a preprogrammed GPS which included the coordinates of his destination, approximately twenty to thirty nautical miles

southwest of Puerto Rico. He was informed that he would meet another vessel at this destination and would drop off the contraband there. On December 28, 2022, González, along with two others, cast off from the shores of Venezuela (in a homemade fiberglass vessel with the engines installed incorrectly) to carry out their assignment. The vessel traveled slowly, at a speed of fifteen knots, ultimately reaching its destination after three days. But once the crew arrived at the coordinates, the vessel which was set to meet them was nowhere to be found, so they redirected their watercraft toward Puerto Rico.

On the morning of December 31, 2022, a Puerto Rico Police Fuerzas Unidas de Rapida Acción (FURA) aircraft spotted Appellant's vessel navigating toward Puerto Rico. The FURA aircraft alerted a FURA patrol boat which stopped Appellant's vessel to further investigate. Soon thereafter, a U.S. Customs and Border Protection Air and Marine Operations patrol vessel arrived and boarded Appellant's vessel. After boarding, the agents observed several burlap sack bales located in compartments on the vessel. The full search revealed twenty-one burlap sacks which all tested positive for cocaine, totaling 627 kilograms. Upon questioning by the agents, González indicated that he was the captain of the vessel. All three individuals aboard the vessel and the contraband were subsequently transported to the FURA station in Cabo Rojo, Puerto Rico. González and his two colleagues

were arrested that same day.

### **B. Procedural History**

On January 11, 2023, a grand jury indicted González on four counts including: Count One - conspiracy to possess with intent to distribute five kilograms of or more of a mixture or substance containing a detectable amount of cocaine on board a vessel subject to the jurisdiction of the United States, in violation of 46 U.S.C. §§ 70503(a)(1) & (b), 70506(b), and 21 U.S.C. § 960(b)(1)(B)(ii); Count Two - aiding and abetting each other to possess with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine on board a vessel subject to the jurisdiction of the United States, in violation of 46 U.S.C. § 70503(a)(1) & (b), 21 U.S.C. § 960(b)(1)(B)(ii), and 18 U.S.C. § 2; Count Three - conspiracy to knowingly and intentionally import into the United States more than five kilograms or more of a mixture or substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 952, 960(b)(1)(B)(ii), and 963; and Count Four - conspiracy to possess with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(ii), and 846. On August 29, 2023, González pled guilty to all four counts laid out in the indictment by way of a straight plea.

The U.S. Probation Office filed González's Presentence

Investigation Report ("PSR"), which calculated a total offense level of 35 after considering both aggravating and mitigating guideline adjustments. That included a two-level enhancement for specific offense characteristics pursuant to U.S.S.G. § 2D1.1(b) (3) (C), because González had informed law enforcement at the time of his arrest that he was the captain of the vessel. It also included a three-level reduction for timely acceptance of responsibility under U.S.S.G. § 3E 1.1(a) and (b) and a two-level reduction for no prior criminal history under U.S.S.G. § 4C1.1. Based on that total offense level and no prior criminal record, the PSR calculated a guideline imprisonment range of 168 to 210 months and a term of supervised release of at least two years and no greater than five years.

In its sentencing memorandum, the government did not object to the PSR but proposed an additional two-level reduction in offense level under U.S.G.G. § 5C1.2 because González met the safety-valve requirements of 18 U.S.C. § 3553(f) for non-violent drug offenders. The government's recommendation calculated a corresponding total offense level of 33 with a guideline sentencing range of 135-168 months. Ultimately, the government argued that a sentence of 135 months was appropriate.

González, for his part, enumerated four main objections to the PSR in his memorandum. He objected to the captain enhancement applied pursuant to U.S.S.G. § 2D1.1(b) (3) (C) on the

ground that being a "captain" requires "special skill" beyond simply driving a sea vessel. He also argued that he played only a minimal or minor role in the offense, thereby qualifying him for an additional two-level decrease pursuant to U.S.S.G. § 2D1.1(b)(17). He requested another two-level reduction pursuant to U.S.S.G. § 2D1.1(b)(18), which considers mitigating circumstances, and objected to the imposition of the mandatory minimum sentence in his case. Ultimately, González argued for a total sentence of 84 months.

At sentencing, the district court agreed with the government and imposed a sentence of 135 months of imprisonment with 5 years of supervised release. González timely appealed to this Court seeking review of his sentence.

## **II. DISCUSSION**

"Our review of sentences imposed under the advisory Guidelines is a two-step process: we first examine whether the district court committed any procedural missteps and, if the sentence is procedurally sound, we then ask whether the sentence is substantively reasonable." United States v. Pantojas-Cruz, 800 F.3d 54, 59 (1st Cir. 2015) (citation modified). We begin with a discussion of whether González's sentence was procedurally reasonable.

### **A. Procedural Reasonableness**

In assessing procedural reasonableness, we employ a

"multifaceted abuse of discretion standard," reviewing "factual findings for clear error, the interpretation of the guidelines de novo, and judgment calls for abuse of discretion." United States v. Pérez-Vásquez, 6 F.4th 180, 204 (1st Cir. 2021) (citation modified). Furthermore, "we will find an abuse of discretion only when left with a definite conviction that no reasonable person could agree with the judge's decision." United States v. McCulloch, 991 F.3d 313, 317 (1st Cir. 2021) (citation modified). González alleges that his sentence was procedurally unreasonable because the district court erroneously: (1) adopted and applied the captain sentencing enhancement under U.S.S.G § 2D1.1(b)(3)(C), and (2) failed to adopt the minor participant role adjustment under the guidelines. For the following reasons, we find the first argument unpersuasive. But the government concedes that vacatur and remand are warranted on the second.

### **1. Captain Enhancement**

González contends that the district court erred by applying the captain enhancement over his objections. Drawing on Judge Torruella's dissent in United States v. Trinidad, 839 F.3d 112, 119-20 (1st Cir. 2016), González argues that the sentencing enhancement under U.S.S.G. § 2D1.1(b)(3)(C), whether for captain or navigator, can only apply to "highly trained, skilled, and sophisticated defendants who can operate aircraft, submarines, and are on vessels that require officers." He argues that since the

vessel driven in this case was a homemade fiberglass boat, the level of skill and sophistication required to drive the vessel does not rise to the level contemplated by the Sentencing Commission. But nothing in the guidelines requires that the provision applies only to "highly trained, skilled, and sophisticated defendants," as Trinidad itself made clear in addressing the term "navigator." 839 F.3d at 114-16; see also United States v. Guerrero, 114 F.3d 332, 345-46 (1st Cir. 1997) (applying captain enhancement to defendant who had acted as a "pilot" where defendant did not possess special navigational skill and had merely steered the vessel upon his master's instruction). And González gives us no reason to think our analysis should differ with respect to the word "captain."

Next, González argues that although he admitted to being captain, the government did not make this allegation against him at the change of plea hearing. But González does not explain why that is relevant or otherwise question the basis for finding that he did admit to being a captain.

González further argues that, unlike the defendant in United States v. Carbajal-Váldez, 874 F.3d 778, 784 (1st Cir. 2017), he did not procure the vessel or take it to a loading point. However, he does not explain why his failure to procure the vessel should lead us to conclude he is therefore not a 'captain,' and we do not see why a person must have procured the vessel to be its



captain.

González contends that, in totality, the district court placed too much weight on his admission of captaincy, but the record shows otherwise. The district court found that, in addition to that admission, González had maintained control of the vessel (despite having two engines installed incorrectly), and that he had responded to an inquiry by recruiters looking expressly for boat captains. We therefore find that the district court did not err in assigning González the captain enhancement.

## **2. Minor Participant Role**

We continue with a discussion of whether González should have been granted a minor participant role adjustment. "We review the district court's mitigating role determination for clear error." United States v. Mena-Robles, 4 F.3d 1026, 1038 (1st Cir. 1993) (citation modified). Section 3B1.2 of the Sentencing Guidelines permits a court to decrease a defendant's offense by two levels if he is deemed a minor participant. To qualify as a minor participant, the defendant must be "less culpable than most other participants in the criminal activity" but their role "could not be described as minimal." U.S. Sent'g Guidelines Manual § 3B1.2 (U.S. Sent'g Comm'n 2004). "A defendant who seeks a mitigating role adjustment bears the burden of proving, by a preponderance of the evidence, that he is entitled to the downward adjustment." United States v. Perez, 819 F.3d 541, 545 (1st. Cir.

2016). "We have cautioned before that role-in-the-offense determinations are notoriously fact-specific." United States v. Arias-Mercedes, 901 F.3d 1, 5 (1st Cir. 2018) (citation modified). "[A]bsent a mistake of law, battles over a defendant's status . . . will almost always be won or lost in the district court." United States v. Graciani, 61 F.3d 70, 75 (1st Cir. 1995).

At González's sentencing hearing, the district court did not grant him a minor participant reduction. González asserts that the district court erred by (1) not discussing relevant case law in making its determination and (2) failing to conduct the required five-factor analysis, enumerated in Application Note 3(C), to determine the applicability of the adjustment under § 3B1.2.

The government has filed a Rule 28(j) letter withdrawing its arguments supporting the district court's ruling as to the minor participant issue, and requesting that we vacate and remand for the district court to reconsider that issue in light of our recent decisions in United States v. Guía-Sendeme, 134 F.4th 611 (1st Cir. 2025), and United States v. Guzmán-Ceballos, 144 F.4th 1 (1st Cir. 2025). We see no reason to deviate from that course.

#### **B. Substantive Reasonableness**

González raises two substantive reasonableness arguments: (1) that the sentence of 135 months imposed by the district court creates a sentencing disparity with his

co-defendants, and (2) that the district court failed to fully consider González's compliance with 18 U.S.C. § 3553(f) (the "safety valve" provision) and all mitigating factors.

We review the substantive reasonableness of a sentence using a "highly deferential abuse-of-discretion standard." United States v. Narváez-Soto, 773 F.3d 282, 288 (1st Cir. 2014) (quoting United States v. Santiago-Rivera, 744 F.3d 229, 234 (1st Cir. 2014)). Our deference to the sentencing court recognizes the "superior coign of vantage" that it possesses. United States v. Martin, 520 F.3d 87, 92 (1st Cir. 2008) (citation modified). Upon considering "the totality of the circumstances," a sentence will be considered substantively reasonable provided there "is a plausible sentencing rationale and a defensible result." Id. at 96 (citation omitted). In a case such as this one, where the challenged sentence falls "within a properly calculated guideline sentencing range" and is also a "bottom-of-the-range sentence," the Appellant faces "a heavy lift." United States v. Angiolillo, 864 F.3d 30, 35 (1st Cir. 2017).

González first argues that he was unfairly sentenced to 135 months compared to his co-defendants who were each sentenced to 108 months. We disagree. "Sentencing courts must consider the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." United States v. Bishoff, 58 F.4th 18, 25 (1st Cir.

2023) (citing 18 U.S.C. § 3553(a)(6)) (citation modified). While this provision is primarily aimed at minimizing national sentencing disparities, not those between co-defendants, we have recognized that sentencing "similarly situated coconspirators or codefendants to inexplicably disparate terms" may give rise to "legitimate concerns." United States v. Candelario-Ramos, 45 F.4th 521, 526 (1st Cir. 2022) (citation modified); United States v. Romero, 906 F.3d 196, 211 (1st Cir. 2018) (citation modified). To successfully establish such a similarity between codefendants, a defendant "must compare apples to apples." Bishoff, 58 F.4th at 26 (citing United States v. Mateo-Espejo, 426 F.3d 508, 514 (1st Cir. 2005)). Consequently, a disparity claim may be unsuccessful where the defendant "fail[s] to acknowledge material differences between [his] own circumstances and those of [his] more leniently punished codefendants." United States v. Reyes-Santiago, 804 F.3d 453, 467 (1st Cir. 2015) (citation modified). Material differences may be "dissimilar criminal involvement, criminal histories, or cooperation with the government, to name just a few." Romero, 906 F.3d at 211-12; see United States v. Flores-Machicote, 706 F.3d 16, 24 (1st Cir. 2013).

González's argument falls short because he failed to establish how his circumstances are substantially similar to those of his codefendants. For one, González entered into a straight plea to all counts in the indictment, whereas his codefendants

entered into plea agreements for Count One, resulting in varying sentences. González's varied sentence can also be explained by his receipt of the captain sentencing enhancement, which his codefendants did not receive. Because González was the captain of the vessel, he was significantly more involved in the drug venture than his codefendants. Therefore, González's distinguishable greater role in the venture and straight plea demonstrate that his codefendants are not "appropriate comparators" as required for a sentencing disparity claim to prevail. See Bishoff, 58 F.4th at 26. González has therefore failed to compare apples to apples.

As to González's second argument, he asserts that the district court failed to weigh his compliance with 18 U.S.C. § 3553(f) as a factor in favor of granting him a sentence below 120 months and failed to consider relevant mitigating factors contained in the PSR as is required under 18 U.S.C. § 3553(a). The record before us, however, does not support these contentions. In declaring González's sentence, the district court explicitly acknowledged that González met the requirements of 18 U.S.C. § 3553(f). The district court stated that González was a first-time offender with no known history of violent behavior or substance abuse, thereby mitigating recidivism risks. With respect to other mitigating factors outlined in 18 U.S.C. § 3553(a), the district court verbally acknowledged González's

age, level of education, employment, and financial status in its decision. The district court also took care to read over "the pre-sentence investigation report, the plea agreement, sentencing memorandum, and objections to the pre-sentence investigation report filed on behalf of Mr. González, the probation officer's response to the objections, the Government's sentencing memorandum . . . and arguments by counsel, arguments by the Government, and Mr. González's allocution."

While the district court may not have explicitly addressed all of González's mitigating factors, such as his health, in its formal announcement of the sentence, we have stated that "when explicating the sentence imposed, [a] court is not required to address the sentencing factors, one by one, in some sort of rote incantation. . . . It is enough for the court simply to identify the main factors driving its determination." United States v. Ruperto-Rivera, 16 F.4th 1, 6 (1st Cir. 2021) (citation modified). Furthermore, "we have warned against reading too much into a district court's failure to respond explicitly to particular sentencing arguments." United States v. Cortés-Medina, 819 F.3d 566, 571 (1st Cir. 2016) (citation modified). We therefore find no reason to think that the district court abused its discretion.

### III. CONCLUSION

For the reasons stated above, we affirm in part, vacate in part, and remand for the district court to revisit the minor

participant role adjustment.