

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

No. 17-40037
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 6, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHN CRAIG ZIMMERMAN,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:07-CR-232-1

Before REAVLEY, PRADO, and GRAVES, Circuit Judges.

PER CURIAM:*

John Craig Zimmerman, federal prisoner # 71281-179, appeals the district court's denial of his petition for a writ of audita querela challenging the substantive reasonableness of the cumulative 300-month sentence imposed following his convictions for enticing a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, receiving child pornography, and possessing child pornography. Zimmerman

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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argues that he is entitled to relief in light of recent studies showing that recidivism rates for sex offenders are not as high as previously thought.

Although the district court did not explain its decision denying Zimmerman's request for relief, Zimmerman cannot challenge the reasonableness of his sentence through a writ of audita querela. *See United States v. Miller*, 599 F.3d 484, 488 (5th Cir. 2010). Further, although Zimmerman has filed a letter pursuant to Federal Rule of Appellate Procedure 28 (j), we decline to address the issue raised therein because it is raised for the first time and relies on cases available before Zimmerman filed his opening brief.

The district court's judgment is AFFIRMED.