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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>OCTAVIO OSORIO-ESCOBAR,</p> <p>Defendant - Appellant.</p>
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No. 07-10573

D.C. No. CR-07-01153-WWE

MEMORANDUM \*

Appeal from the United States District Court  
for the District of Arizona  
Warren W. Eginton, District Judge, Presiding

Submitted February 18, 2009\*\*

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Octavio Osorio-Escobar appeals from the 33-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

§ 1291, and we affirm.

Osorio-Escobar contends that the district court procedurally erred by: (1) failing to consider the 18 U.S.C. § 3553(a) sentencing factors; and (2) failing to provide an adequate explanation for his sentence. Reviewing for plain error, we conclude that Osorio-Escobar has failed to show that any error affected his substantial rights. *See United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008); *see also Rita v. United States*, 127 S. Ct. 2456, 2468-69 (2007).

We also conclude that Osorio-Escobar's sentence is not substantively unreasonable given the totality of the circumstances. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc); *see also United States v. Marcial-Santiago*, 447 F.3d 715, 718 (9th Cir. 2006).

**AFFIRMED.**