

MAY 26 2009

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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NOT FOR PUBLICATION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>JOEL SOLIS,</p> <p>Defendant - Appellant.</p>
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No. 08-10484

D.C. No. 1:04-CR-05112-AWI

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted May 12, 2009\*\*

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Joel Solis appeals from the 70-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation

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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).

of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Solis contends that the district court failed to adequately explain its sentence and erred by using a prior sentence as an arbitrary limit on the extent of a variance instead of considering all the factors set forth in 18 U.S.C. § 3553(a). We conclude that the district court properly considered the § 3553(a) factors, provided an adequate explanation of the reasons for the sentence, and imposed a sentence that was not substantively unreasonable. *See Gall v. United States*, 128 S.Ct. 586, 596 (2007); *United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

**AFFIRMED.**