

JUL 06 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTURO SANTANA-VILLASENOR,
a/k/a GREGORIO AREANO CHAVEZ,
GREGORIA AREANO CHAVEZ and
CARLOS VILLA SENOR SANTANA,

Defendant - Appellant.

No. 06-50034

D.C. No. CR-05-00108-JVS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Arturo Santana-Villasenor appeals from the district court's order denying his motion to exclude the warrant of deportation and certificate of nonexistence of

* 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).

record, as well as from the 41-month sentence imposed following his conditional guilty-plea conviction for being an illegal alien found in the United States following deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Santana-Villasenor contends that the district court's admission into evidence of a warrant of deportation and a certificate of nonexistence of record violates his Sixth Amendment Confrontation Clause rights. As he concedes, these contentions are foreclosed. *See United States v. Bahena-Cardenas*, 411 F.3d 1067, 1075 (9th Cir. 2005); *see also United States v. Cervantes-Flores*, 421 F.3d 825, 834 (9th Cir. 2005) (per curiam).

Santana-Villasenor contends that the district court procedurally erred at sentencing by treating the U.S. Sentencing Guidelines range as presumptively reasonable. The district court did not plainly err. *See United States v. Carty*, 520 F.3d 984, 994-95 (9th Cir 2008) (en banc); *see also United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008).

Santana-Villasenor contends that 8 U.S.C. § 1326(b) is unconstitutional. As Santana-Villasenor concedes, this contention is foreclosed. *See Almendarez-Torres v. United States*, 523 U.S. 224, 226-27 (1998); *United States v. Beng-Salazar*, 452 F.3d 1088, 1091 (9th Cir. 2006).

Santana-Villasenor contends that the district court's imposition of a supervised release condition requiring that he report to his probation officer within 72 hours of reentry violates his Fifth Amendment right against self incrimination. This contention fails. *See United States v. Abbouchi*, 502 F.3d 850, 859 (9th Cir. 2007).

AFFIRMED.