

SEP 30 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NOT FOR PUBLICATION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>ADRIAN GARCIA-ALCANTAR,</p> <p>Defendant - Appellant.</p>
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No. 09-50013

D.C. No. 3:08-cr-02426-WQH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Adrian Garcia-Alcantar appeals from the \$1,000 fine imposed as part of his sentence following his guilty-plea conviction for bringing in illegal aliens without

* 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).

presentation, and aiding and abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Garcia-Alcantar contends that the district court erred by imposing the \$1,000 fine because he has neither the present nor future ability to pay the fine. The district court did not clearly err in its factual determination that Garcia-Alcantar is able to pay the fine. *See United States v. Orlando*, 553 F.3d 1235, 1239-40 (9th Cir. 2009). Moreover, the district court sufficiently considered the factors set forth in 18 U.S.C. §§ 3553(a) and 3572(a), adequately explained its decision to impose the fine, and imposed a reasonable fine. *See id.*

AFFIRMED.