

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NOT FOR PUBLICATION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>MARTIN ALCANTARA-CASTILLO,</p> <p>Defendant - Appellant.</p>

No. 09-50061

D.C. No. 3:08-CR-02963-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted September 14, 2009**

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

Martin Alcantara-Castillo appeals from the 24-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United

* 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).

States, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Alcantara-Castillo contends that the district court procedurally erred by not discussing whether a downward departure, pursuant to U.S.S.G. § 5K2.0, was appropriate and by not applying the 18 U.S.C. § 3553(a) sentencing factors to the facts of his case. These contentions are belied by the record. The district court discussed the departure request at the sentencing hearing and engaged in a legally sufficient analysis of the 18 U.S.C. § 3553(a) sentencing factors. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

Alcantara-Castillo also contends that his sentence is substantively unreasonable because he did not receive a sentence reduction for saving a woman's life while traveling to the United States. Alcantara-Castillo's sentence is not unreasonable in light of the totality of the circumstances. *See id.* at 993; *see also United States v. Mohamed*, 459 F.3d 979, 986-87 (9th Cir. 2006).

AFFIRMED.