

OCT 28 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NOT FOR PUBLICATION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.

ERIC GENARO PAKAS-CARDENAS,

Defendant - Appellant.

No. 09-30051

D.C. No. 4:08-CR-00118-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted October 13, 2009**

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Eric Genaro Pakas-Cardenas appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal re-entry of a deported alien, in

* 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).

violation of 18 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Pakas-Cardenas contends that the district court procedurally erred by failing to explain how it considered the sentencing factors of 18 U.S.C. § 3553(a). The district court's explanation was sufficient under *Rita v. United States*, 551 U.S. 338, 358-59 (2007) because this was a conceptually simple case, and the record is clear that the district court considered Pakas-Cardenas's arguments and believed that Pakas-Cardenas's personal circumstances "were simply not different enough to warrant a different sentence[,]" *id.* at 359.

Pakas-Cardenas also contends that his sentence was substantively unreasonable. In light of the totality of the circumstances and the 3553(a) factors, the sentence was not unreasonable. *See Gall v. United States*, 128 S. Ct. 586, 597 (2007).

AFFIRMED.