

JAN 04 2010

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NOT FOR PUBLICATION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.

RAFAEL BORJAS-RIOS,

Defendant - Appellant.

No. 09-10104

D.C. No. 2:08-CR-00004-PMP

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, District Judge, Presiding

Submitted December 15, 2009\*\*

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Rafael Borjas-Rios appeals from the 41-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United

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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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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

Borjas-Rios received a 16-level enhancement, pursuant to U.S.S.G. § 2L1.2(b)(1)(A)(ii), for being previously convicted of a crime of violence. He contends that his sentence is substantively unreasonable because it is excessive in light of the circumstances of his prior conviction and the totality of his life prior to and after that conviction. Borjas-Rios' sentence is substantively reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc); *cf. United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1054-58 (9th Cir. 2009).

**AFFIRMED.**