

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NOT FOR PUBLICATION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.

SALVADOR AVINA-BILLA,

Defendant - Appellant.

No. 09-50118

D.C. No. 3:08-cr-03608-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted December 15, 2009**

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

Salvador Avina-Billa appeals from the 71-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 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.

Avina-Billa contends that his sentence is unreasonable in light of the fact that the district court failed to consider certain defendant-specific facts. He also contends that his sentence is substantively unreasonable. The record reflects that the district court did not base the sentence on clearly erroneous facts, considered the 18 U.S.C. § 3553(a) factors, and imposed a sentence that is substantively reasonable in light of the totality of the circumstances and the § 3553(a) sentencing factors. *See Gall v. United States*, 552 U.S. 38, 53-60 (2007); *cf. United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1054-58 (9th Cir. 2009).

AFFIRMED.