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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NOT FOR PUBLICATION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>URIEL SANCHEZ,</p> <p>Defendant - Appellant.</p>

No. 09-50058

D.C. No. 3:08-cr-03530-LAB-1

MEMORANDUM *

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

Submitted January 13, 2010**
Pasadena, California

Before: GOODWIN, CANBY and FISHER, Circuit Judges.

Uriel Sanchez appeals his above-Guidelines sentence for transportation of illegal aliens, 8 U.S.C. § 1324(a)(1)(A)(ii) and (v)(II). We review for both procedural error and substantive reasonableness under an abuse-of-discretion standard, *Gall v. United States*, 552 U.S. 38, 51 (2007), and affirm.

*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).

Sanchez's sentence was not based on an impermissible factor. The record demonstrates that the district court considered the proper factors under 18 U.S.C. § 3553(a) and does not suggest that any impermissible factor affected the sentence. *See Gall v. United States*, 552 U.S. at 51; *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) (en banc).

The district court “explain[ed the sentence] sufficiently to permit meaningful appellate review.” *Carty*, 520 F.3d at 992. Nor did the court err by considering under section 3553(a) the same conduct that had already enhanced the Guidelines range. *See* 18 U.S.C. § 3553(a)(1) (requiring the court to consider the “nature and circumstances of the offense”); *Rita v. United States*, 551 U.S. 338, 351 (2007) (contemplating that the Guidelines sentence may “fail[] to properly reflect § 3553(a) considerations” or that a particular “case [may] warrant[] a different sentence regardless”). The sentence was not unreasonable. *See Gall*, 552 U.S. at 51.

AFFIRMED.