

MAR 10 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NOT FOR PUBLICATION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.

DANIEL ROMERO-PEREZ, aka
Francisco Gaspar-Jose,

Defendant - Appellant.

No. 09-50243

D.C. No. 3:09-CR-00093-MLH

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Daniel Romero-Perez appeals from the 46-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.

Romero-Perez contends that his sentence is unreasonable because the district court gave little weight to the fact that he returned to the United States to care for his ailing father and to the fact that he accepted responsibility at an early stage in the proceeding. He also contends that the district court erred by denying his request for a downward departure because he was compelled to return to the United States as a result of his father's ill health. We review the overall sentence for reasonableness. *See United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008). The record reflects that the district court considered the 18 U.S.C. § 3553(a) sentencing factors and made an individualized determination based on the facts. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc). In light of the totality of the circumstances, the sentence is substantively reasonable. *See id.* at 993; *cf. United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1054-58 (9th Cir. 2009).

AFFIRMED.