

APR 01 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ELEAZAR SANCHEZ-HERRERA,

Defendant - Appellant.

No. 09-30180 & 09-30181

D.C. Nos. 1:08-CR-00092-RFC
1:08-CR-00019-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

In these consolidated appeals, Eleazar Sanchez-Herrera appeals from the 66-month sentence imposed following his guilty-plea conviction for illegal reentry of

* 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).

deported alien, in violation of 8 U.S.C. § 1326(a), and conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Sanchez-Herrera contends that the district court procedurally erred and imposed a substantively unreasonable sentence by failing to discuss his individual and personal characteristics when imposing the sentence. The record shows that the district court considered the sentencing factors under 18 U.S.C. § 3553(a) and defense counsel's arguments when determining Sanchez-Herrera's sentence, and therefore did not procedurally err. *See Rita v. United States*, 551 U.S. 338, 356-59 (2007); *United States v. Carty*, 520 F.3d 984, 991-92, 995 (9th Cir. 2008) (en banc). Further, considering the totality of the circumstances, including the § 3553(a) sentencing factors, the district court's sentence was substantively reasonable. *See Carty*, 520 F.3d at 993.

AFFIRMED.