

APR 09 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NOT FOR PUBLICATION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.

JAVIER SARABIA,

Defendant - Appellant.

No. 09-10272

D.C. No. 4:09-cr-00005-CKJ-JJM-
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MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted February 3, 2010**
San Francisco, California

Before: HUG, BEEZER and HALL, Circuit Judges.

Defendant-appellant Javier Sarabia (“Sarabia”) appeals from a final judgment convicting him of one count of illegal re-entry after deportation in violation of 8 U.S.C. § 1326, as enhanced by 8 U.S.C. § 1326(b)(1). Sarabia

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

pleaded guilty to the crime without a plea agreement, and the district court sentenced him to 24 months imprisonment. We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291, and we affirm.

The facts of this case are known to the parties. We do not repeat them.

I

We review the substantive reasonableness of a sentence for an abuse of discretion. *United States v. Autery*, 555 F.3d 864, 871 (9th Cir. 2009).

II

The district court acted well within its discretion by sentencing Sarabia at the bottom of the applicable advisory guidelines range. The record clearly shows that, during the sentencing hearing, the district court considered Sarabia's individual circumstances and mitigating factors. The fact that the district court did not expressly discuss every 18 U.S.C. § 3553(a) factor does not make the sentence substantively unreasonable because a "district court need not tick off each of the § 3553(a) factors to show that it has considered them." *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

AFFIRMED.