

APR 14 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NOT FOR PUBLICATION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.

DAVID BARAJAS NAVARRO,

Defendant - Appellant.

No. 09-50230

D.C. No. 3:04-cr-02276-LAB

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

David Barajas Navarro appeals from the 18-month sentence imposed upon revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* 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).

Navarro contends that the district court procedurally erred at sentencing by failing to expressly calculate or consider the applicable Guidelines range. We review Navarro's contention for plain error. *See United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009). Navarro has not shown that the district court's failure to expressly calculate the applicable Guidelines range affected his substantial rights. The Guidelines range was set out in the petition for revocation of supervised release, the parties did not dispute that the range calculated in the petition was correct, and the court sentenced within it.

AFFIRMED.