

APR 15 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NOT FOR PUBLICATION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.

ADALIX LORENZO-MACIAL,

Defendant - Appellant.

No. 08-10046

D.C. No. CR-07-01332-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted April 5, 2010**

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

Adalix Lorenzo-Macial appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal reentry after deportation, in

* 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).

violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Lorenzo-Macial contends that the district court erred at sentencing by: (1) misconstruing its authority to vary from the Guidelines range in the absence of extraordinary circumstances; (2) failing to consider his mitigating circumstances; and (3) declining to impose a lower sentence in order to achieve parity with fast-track defendants. The record indicates that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 994-96 (9th Cir. 2008) (en banc); *see also United States v. Gonzalez-Zotelo*, 556 F.3d 736, 739-40 (9th Cir. 2009).

Lorenzo-Macial also contends that his sentence is substantively unreasonable in light of his mitigating personal circumstances and the age of a prior conviction that was the basis for a 16-level enhancement, pursuant to U.S.S.G. § 2L1.2(b)(1)(A)(ii). The sentence imposed is substantively reasonable in light of the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51-52 (2007); *cf. United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1055-56 (9th Cir. 2009).

AFFIRMED.