

JUN 18 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NOT FOR PUBLICATION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.

FERNANDO MARQUEZ-BARRAZA,

Defendant - Appellant.

No. 09-50373

D.C. No. 3:09-cr-01376-GT

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, Jr., District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Fernando Marquez-Barraza appeals from the 63-month sentence imposed following his guilty-plea conviction for being an illegal alien in the United States

* 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).

after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Marquez-Barraza contends that his sentence is substantively unreasonable because it is longer than the one jointly recommended in the parties' plea agreement and is greater than necessary. In light of the totality of the circumstances of this case and the 18 U.S.C. § 3553(a) sentencing factors, the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 993-94 (9th Cir. 2008) (en banc); *see also Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.