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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>RIGOBERTO MOLINA-URIOSTEGUI,</p> <p>Defendant - Appellant.</p>
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No. 09-10390

D.C. No. 2:09-cr-00117-RLH

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Roger L. Hunt, Chief District Judge, Presiding

Submitted June 29, 2010\*\*

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Rigoberto Molina-Uriostegui appeals from the 41-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 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).

Molina-Uriostegui contends that the district court procedurally erred at sentencing by: 1) treating the Guidelines as mandatory; 2) failing to consider imposing a sentence outside the Guidelines range in light of the factors set forth in 18 U.S.C. § 3553(a); and 3) failing to adequately explain the sentence imposed. He further contends that the sentence is substantively unreasonable. The record reflects that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-93, 995 (9th Cir. 2008) (en banc). Moreover, in light of the totality of the circumstances, the sentence at the bottom of the Guidelines range is substantively reasonable. *See id.* at 993.

**AFFIRMED.**