

AUG 02 2010

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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NOT FOR PUBLICATION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>JUAN BARRIGA-CABRERA,</p> <p>Defendant - Appellant.</p>
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No. 09-10298

D.C. No. 5:08-cr-00843-JF

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeremy D. Fogel, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Juan Barriga-Cabrera appeals from the below the Guidelines, 60-month sentence, imposed following his conviction for illegal reentry, in violation of 8 U.S.C. § 1326(a). 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).

Barriga-Cabrera contends that the district court procedurally erred by failing to calculate the applicable advisory Guidelines range. He also contends that the district court erred in failing to adequately address his argument that the 16-point enhancement under U.S.S.G. § 2L1.2(b)(1)(a) lacks any considered rationale or empirical basis. The record reflects that the district court provided a reasoned sentencing explanation and did not otherwise procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-95 (9th Cir. 2008) (en banc); *see also United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1053-54 (9th Cir. 2009).

AFFIRMED.