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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NOT FOR PUBLICATION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>SALOMON GARCIA-RODRIGUEZ,</p> <p>Defendant - Appellant.</p>
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No. 09-50454

D.C. No. 3:09-cr-01852-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted July 19, 2010**

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

Salomon Garcia-Rodriguez appeals from the 46-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, 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).

Garcia-Rodriguez contends that the district court procedurally erred by neglecting to meaningfully consider and address all of the factors set forth in 18 U.S.C. § 3553(a) and his request for a downward departure and failing to adequately explain the reasons for the sentence. The record reflects that the district court considered the section 3553(a) factors, provided a reasoned explanation for the sentence, and did not otherwise procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc); *see also United States v. Diaz-Argueta*, 564 F.3d 1047, 1051-52 (9th Cir. 2009).

Garcia-Rodriguez also contends that his sentence is substantively unreasonable in light of his mitigating personal circumstances and the minor nature of the prior conviction that was the basis for a 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii). The record reflects that the 46-month sentence is substantively reasonable in light of the totality of the circumstances and the section 3553(a) factors. *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.