

SEP 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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>YURI SAUL DELEON-ARCHILA,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 09-10407

D.C. No. 2:09-cr-00084-RLH

MEMORANDUM*

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

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Yuri Saul Deleon-Archila appeals from the 60-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).

Deleon-Archila contends that the district court procedurally erred at sentencing by failing to: 1) fully address his non-frivolous arguments in support of a lower sentence; 2) adequately explain the sentence imposed; and 3) consider all of the 18 U.S.C. § 3553(a) factors. Deleon-Archila also contends that the sentence is substantively unreasonable. The record reflects that the district court considered Deleon-Archila's arguments and did not otherwise 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 is substantively reasonable. *See id.* at 993.

Deleon-Archila's contention that his sentence violates the Fifth and Sixth Amendments because his prior convictions were neither admitted, nor established by a jury beyond a reasonable doubt, is foreclosed. *See United States v. Grajeda*, 581 F.3d 1186, 1197 (9th Cir. 2009).

AFFIRMED.