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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NOT FOR PUBLICATION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>RAMON ESPERANZA CARRILLO,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 09-50158

D.C. No. 3:08-CR-01446-WQH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted August 23, 2010**

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

Ramon Esperanza Carrillo appeals from the 27-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. 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).

Carrillo contends that the district court procedurally erred by not responding to his non-frivolous arguments in mitigation. The record reflects that the district court carefully considered the 18 U.S.C. § 3553(a) sentencing factors, including Carrillo's arguments in mitigation, before concluding that the circumstances were insufficient to warrant a sentence below the one imposed. The district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir.2008) (en banc).

Carrillo also contends that his sentence is substantively unreasonable. In light of the totality of the circumstances, the district court's within-Guidelines sentence is substantively reasonable. *See Carty*, 520 F.3d at 993.

AFFIRMED.