

OCT 04 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALFREDO CAMPOS-PADILLA,

Defendant - Appellant.

No. 09-10469

D.C. No. 4:09-cr-00764-JMR

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Marvin E. Aspen, District Judge, Presiding

Submitted September 13, 2010\*\*

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Alfredo Campos-Padilla appeals from the 48-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.

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\* 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).

Campos-Padilla contends that the district court erred by refusing to grant him a third-level reduction for acceptance of responsibility. Because “the government’s decision not to move for the additional level reduction was not arbitrary,” there was no error. *United States v. Medina-Beltran*, 542 F.3d 729, 731 (9th Cir. 2008).

We also disagree that because Campos-Padilla pleaded guilty in the early stages of the proceeding against him, the failure to afford him the same benefit afforded to those defendants who agree to the Government’s standard written fast-track plea agreement created an unwarranted disparity. *See United States v. Gonzalez-Zotelo*, 556 F.3d 736, 740-41 (9th Cir. 2009).

The district court did not abuse its discretion because it did not commit any significant procedural error and in light of the totality of the circumstances, the sentence below the Guidelines range is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

Campos-Padilla’s remaining contentions are unpersuasive.

**AFFIRMED.**