

DEC 27 2010

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>GONZALO GUERRERO,</p> <p>Defendant - Appellant.</p>
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No. 08-10504

D.C. No. 4:08-CR-00489-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, Chief District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges.

Gonzalo Guerrero appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, 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).

Guerrero contends that his sentence is substantively unreasonable in light of the circumstances, including the seriousness of the offense, his more recent criminal history, and the fact that he previously has not been prosecuted for his illegal entries into the United States. The district court did not procedurally err at sentencing and the sentence is not substantively unreasonable in light of the factors set forth in 18 U.S.C. § 3553(a) and the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.