

DEC 27 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE HUGO MENDOZA,

Defendant - Appellant.

No. 10-50077

D.C. No. 3:09-cr-01980-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Jose Hugo Mendoza appeals from the 77-month sentence imposed following his guilty-plea conviction for attempted entry after deportation, in violation of 8 U.S.C. § 1326, and false claim to United States citizenship, in violation of 18 U.S.C. § 911. 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).

Mendoza contends that the sentence at the bottom of the Guidelines range is substantively unreasonable in light of his impaired mental abilities. The record reflects that the sentence is procedurally sound, and that, in light of the totality of the circumstances, was neither an abuse of discretion nor substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51-52 (2007); *United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.