

JAN 21 2011

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NOT FOR PUBLICATION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.

FELIPE ZAMORA-VILLELA,

Defendant - Appellant.

No. 09-50595

D.C. No. 3:08-cr-02571-JAH

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Felipe Zamora-Villela appeals from the 36-month mandatory minimum sentence imposed following his jury-trial conviction for bringing in illegal aliens for financial gain, in violation of 8 U.S.C. § 1324(a)(2)(B)(ii), bringing in illegal aliens without presentation, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii), and

* 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).

aiding and abetting, in violation of 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Zamora-Villela contends that because 18 U.S.C. § 3553(a) permits a district court to impose a sentence below a mandatory minimum, the district court erred by imposing a substantively unreasonable sentence. Zamora-Villela's contention is foreclosed by *United States v. Wipf*, 620 F.3d 1168, 1170-71 (9th Cir. 2010) (Subsection (a) of section 3553 does not authorize a court to impose a sentence below the mandatory statutory minimum).

AFFIRMED.