

FEB 17 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NOT FOR PUBLICATION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.

PEDRO BRISENO-MARIN, a.k.a. Juan
Lopez-Lopez, a.k.a. Sergio Marin-
Hernandez,

Defendant - Appellant.

No. 10-30174

D.C. No. 2:05-cr-00138-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Robert H. Whaley, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Pedro Briseno-Marin appeals from the 24-month sentence imposed upon revocation of supervised release. 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).

Briseno-Marin contends that the district court procedurally erred by failing to: (1) calculate the advisory Guidelines range; (2) remain cognizant of the guidelines throughout sentencing; and (3) adequately explain the reasons for the sentence imposed. The record reflects that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-95 (9th Cir. 2008) (en banc). Moreover, any such error by the district court did not affect Briseno-Marin's substantial rights. *See United States v. Olano*, 507 U.S. 725, 734-35 (1993).

Briseno-Marin also contends that his sentence is substantively unreasonable. The sentence was reasonable in light of Briseno-Marin's continued recidivism, the need for deterrence, and the breach of trust as evidenced by Briseno-Marin's illegal reentry a mere month after his last deportation. *See U.S.S.G. Ch.7, Pt. A(3)(b)*; *see also Carty*, 520 F.3d at 993.

AFFIRMED.