

MAR 09 2011

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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>OMAR FERNANDO MONTES- ANGUIANO,</p> <p style="text-align: center;">Defendant - Appellant.</p>
--

No. 10-10157

D.C. No. 4:09-cr-01621-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted February 15, 2011**

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

Omar Fernando Montes-Anguiano appeals from the 48-month sentence imposed following his conviction for 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).

Montes-Anguiano contends that his sentence is substantively unreasonable because the district court failed to consider the age of his prior conviction under *United States v. Amezcua-Vasquez*, 567 F.3d 1050 (9th Cir. 2009), and the fact that Montes-Anguiano was 17 years old at the time. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, the sentence is substantively reasonable. *See United States v. Valencia-Barragan*, 608 F.3d 1103, 1108-09 (9th Cir. 2010) (emphasizing the limited scope of *Amezcua-Vasquez*).

AFFIRMED.