

MAR 16 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NOT FOR PUBLICATION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.

OMAR FRANCISCO RODRIGUEZ-
JIMENEZ, a.k.a. Omar Francisco
Rodriguez,

Defendant - Appellant.

No. 10-10153

D.C. No. 4:09-cr-02024-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Gordon J. Quist, District Judge, Presiding

Submitted March 8, 2011**

Before: FARRIS, LEAVY, and BYBEE, Circuit Judges.

Omar Francisco Rodriguez-Jimenez appeals from the 51-month sentence imposed following his guilty-plea conviction for reentry after deportation, in

* 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).

violation of 8 U.S.C. § 1326(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Rodriguez-Jimenez contends that his sentence was substantively unreasonable and failed to give adequate consideration to the all of the relevant circumstances, including the fact that he returned to the United States only to be present for the birth of his second child. In light of the totality of the circumstances, including Rodriguez-Jimenez's criminal and disciplinary history, the 51-month sentence at the bottom of the Guidelines range was substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.