

APR 11 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NOT FOR PUBLICATION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.

MANUEL SALAZAR-LOPEZ,

Defendant - Appellant.

No. 09-50443

D.C. No. 3:09-cr-02835-LAB

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Manuel Salazar-Lopez appeals from the 36-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, 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).

Salazar-Lopez contends that the district court procedurally erred by basing his sentence on erroneous facts regarding the length of his prior sentences, double counting his criminal history, and relying on facts not in the record.

Contrary to his contention, the district court did not err. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc); *see also United States v. Garcia-Cardenas*, 555 F.3d 1049, 1050 (9th Cir. 2009) (per curiam) (district court commits no error by using a defendant's prior conviction both as a basis for a sentencing enhancement and in calculating his criminal history score).

Moreover, in light of the totality of the circumstances, and the factors set forth in 18 U.S.C. § 3553(a), the sentence is substantively reasonable. *See Carty*, 520 F.3d at 991.

AFFIRMED.