

APR 11 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GUILLERMO GODINEZ,

Defendant - Appellant.

No. 10-50332

D.C. No. 3:09-cr-01239-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted April 5, 2011**

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

Guillermo Godinez appeals from the 72-month sentence imposed following his 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).

Godinez contends that the district court procedurally erred by failing to explain adequately its sentence and by failing to address nonfrivolous mitigating arguments. The contention is belied by the record. He further contends that his sentence reflects improper double counting of his criminal history. This contention is foreclosed by *United States v. Garcia-Cardenas*, 555 F.3d 1049, 1050 (9th Cir. 2009) (per curiam).

Godinez also contends that his sentence is substantively unreasonable under *United States v. Amezcua-Vasquez*, 567 F.3d 1050 (9th Cir. 2009), because the sentence does not adequately account for the age of his prior convictions and his individual circumstances. 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 Amezcua-Vasquez*, 567 F.3d. at 1058.

AFFIRMED.