

JUN 08 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NOT FOR PUBLICATION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.

HERMES ADONAY GUILLEN,

Defendant - Appellant.

No. 10-10228

D.C. No. 2:09-cr-00393-HDM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Howard D. McKibben, District Judge, Presiding

Submitted May 24, 2011\*\*

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Hermes Adonay Guillen appeals from the 36-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Guillen contends that the sentence is substantively unreasonable because: (1) it was unreasonable for the district court to enhance his sentence based on his prior drug trafficking conviction; (2) he is unlikely to reoffend; and (3) he is culturally assimilated. In light of the totality of the circumstances and the factors under 18 U.S.C. § 3553(a), the sentence below the Guidelines range is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

**AFFIRMED.**