

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 28 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN PEDRO BARRAZA-LOPEZ,

Defendant - Appellant.

No. 10-50280

D.C. No. 3:04-cr-01962-L-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Argued and Submitted May 3, 2011
Pasadena, California

Before: PREGERSON, FISHER and BERZON, Circuit Judges.

Juan Pedro Barraza-Lopez appeals his guilty-plea conviction on two counts of illegal reentry and one count of escape from federal custody. He also appeals his 100-month sentence.¹ We affirm.

*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

¹We address the other argument Barraza-Lopez raises on appeal in an opinion filed concurrently with this memorandum disposition.

1. Barraza-Lopez has waived his claim that 18 U.S.C. § 3161(c)'s 70-day indictment-to-trial time limit was violated. In the plea agreement, he agreed not to appeal any rulings other than those the agreement expressly outlined. Barraza-Lopez did not raise his § 3161(c) claim before the district court, so the plea agreement of course did not list any ruling on this claim among those preserved for appeal. Barraza-Lopez therefore waived his right to raise it here. *See United States v. Bynum*, 362 F.3d 574, 583 (9th Cir. 2004).

2. Barraza-Lopez's 100-month sentence – at the low end of an unchallenged Guidelines range – was not substantively unreasonable. *See United States v. Carty*, 520 F.3d 984, 994 (9th Cir. 2008) (en banc). The district court discussed all of the mitigating evidence Barraza-Lopez says was improperly discounted and explained why it accorded greater weight to the aggravating evidence. There was no abuse of discretion. *See United States v. Burgum*, 633 F.3d 810, 813 (9th Cir. 2011) (rejecting a substantive unreasonableness challenge when the district court's findings were "rational, clearly explained and closely tied to the factual record").

AFFIRMED.