

OCT 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>ISAIAS AVILA-VILLEGAS,</p> <p>Defendant - Appellant.</p>

No. 11-50038

D.C. No. 3:10-cr-02909-DMS

MEMORANDUM*

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

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Isaias Avila-Villegas appeals from the 37-month sentence imposed following his guilty-plea conviction for attempted entry after deportation, 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).

Avila-Villegas contends that his sentence is substantively unreasonable. The record reflects that Avila-Villegas' sentence, nine months below the bottom of the original Guidelines range, is reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Valencia-Barragan*, 608 F.3d 1103, 1108-09 (9th Cir. 2010) (affirming application of a 16-level enhancement based on a prior conviction for a crime of violence, and distinguishing *United States v. Amezcua-Vasquez*, 567 F.3d 1050 (9th Cir. 2009)).

AFFIRMED.