

OCT 28 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NOT FOR PUBLICATION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.

JOSE M. GOMEZ,

Defendant - Appellant.

No. 11-50068

D.C. No. 3:10-cr-01461-JAH

MEMORANDUM*

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

Submitted October 25, 2011**

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

Jose M. Gomez appeals from the 46-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).

Gomez contends that the district court failed to respond adequately to his argument that his criminal history category classification overrepresented the seriousness of his criminal history. The district court did not err, must less plainly err, in rejecting that argument. *See United States v. Blinkinsop*, 606 F.3d 1110, 1114-17 (9th Cir. 2010).

AFFIRMED.