

DEC 27 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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>FEDERICO ROMAN,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 10-30341

D.C. No. 3:09-cr-00318-BR

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Federico Roman appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal reentry of a deported alien 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).

Roman contends that remand is required because it is unclear whether the district court recognized its discretion to vary from U.S.S.G. § 2L1.2 on policy grounds. *See United States v. Henderson*, 649 F.3d 955, 964 (9th Cir. 2011). The record belies this contention. The district court considered Roman’s policy-based arguments, but did not find them persuasive. *See id.* (“[D]istrict courts are not obligated to vary from the . . . Guidelines on policy grounds if they do not have, in fact, a policy disagreement with them.”).

AFFIRMED.