

DEC 30 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NOT FOR PUBLICATION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.

ALFREDO NAVARRO-GARCIA,

Defendant - Appellant.

No. 11-50076

D.C. No. 3:10-cr-01470-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted December 19, 2011**

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

Alfredo Navarro-Garcia appeals from the 30-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).

Navarro-Garcia contends that the district court misinterpreted Application Note 8 of U.S.S.G. § 2L1.2, erroneously depriving him of the cultural assimilation departure. He also contends that his sentence is substantively unreasonable. The district court did not procedurally err and Navarro-Garcia's low-end Guidelines sentence is reasonable in light of the totality of the circumstances and the sentencing factors set forth in 18 U.S.C. § 3553(a). *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008) (“[W]e consider [Navarro-Garcia's] contention that the district court erred when it denied his motion for a downward departure . . . to the extent that the denial implicates the overall reasonableness of [his] sentence.”).

AFFIRMED.