

JAN 05 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC MUKASA, a.k.a. Elijah Mukasa,  
a.k.a. Moses Mukasa,

Defendant - Appellant.

No. 10-50424

D.C. No. 8:09-cr-00178-SVW

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Submitted December 19, 2011\*\*

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

Eric Mukasa appeals from the 48-month sentence imposed following his guilty-plea conviction for encouraging aliens to enter or reside in the United States

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\* 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).

illegally, in violation of 8 U.S.C. § 1324(a)(1)(A)(iv) and (B)(I). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Mukasa contends that the district court committed procedural error by sentencing him to an above-Guidelines sentence under the 18 U.S.C. § 3553(a) factors without prior notice, by failing to undertake an individualized analysis, and by failing to explain why it rejected his request for a downward variance based on post-offense rehabilitation. The record belies these contentions. *See United States v. Orlando*, 553 F.3d 1235, 1238 (9th Cir. 2009) (“Garden variety considerations of culpability, criminal history, likelihood of re-offense, seriousness of the crime, should not generally come as a surprise to trial lawyers who have prepared for sentencing.”) (quotation marks, citation and alterations omitted); *United States v. Perez-Perez*, 512 F.3d 514, 516 (9th Cir. 2008) (finding no error where it was clear from the transcript that the sentencing judge had considered the defendant’s mitigation arguments, even though he did not explicitly reference them in imposing sentence).

**AFFIRMED.**