

FEB 22 2012

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>JOSE RIVERA-LOPEZ,</p> <p>Defendant - Appellant.</p>

No. 11-10348

D.C. No. 2:10-cr-00368-RLH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Jose Rivera-Lopez appeals from the 70-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28

* 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. Appellant. P. 34(a)(2).

U.S.C. § 1291, and we affirm.

Rivera-Lopez contends that his sentence is substantively unreasonable under *United States v. Amezcua-Vasquez*, 567 F.3d 1050 (9th Cir. 2009), because the sentence does not adequately account for the age of his prior conviction, the nature of the conduct underlying that conviction, or the nature of his subsequent criminal history. In light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3553(a), the sentence is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Valencia-Barragan*, 608 F.3d 1103, 1109 (9th Cir. 2010) (emphasizing the limited scope of the holding in *Amezcua-Vasquez*).

AFFIRMED.