

JUN 29 2012

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NOT FOR PUBLICATION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.

ESTEBAN QUEZADA-CRUZ, a.k.a.
Esteban Quezada-Lopez,

Defendant - Appellant.

No. 11-10588

D.C. No. 2:11-cr-00092-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Esteban Quezada-Cruz appeals from the 56-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

* 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).

28 U.S.C. § 1291, and we affirm.

Quezada-Cruz contends that the district court erred procedurally by failing to consider a shorter sentence based on the staleness of his 1999 drug trafficking conviction. The record belies this contention.

Quezada-Cruz also contends that his sentence is substantively unreasonable because the prior conviction that increased his offense level was stale. The sentence within the advisory Sentencing Guidelines range is substantively reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.