

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NOT FOR PUBLICATION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.

JOSE LUIS MENDOZA-NARANJO,

Defendant - Appellant.

No. 11-50487

D.C. No. 3:11-cr-04492-BEN

MEMORANDUM*

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

Submitted June 26, 2012**

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

Jose Luis Mendoza-Naranjo appeals from the two-year 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.

* 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).

§ 1291, and we affirm.

Mendoza-Naranjo contends that the district court procedurally erred by failing to consider the Sentencing Guidelines, failing to consider all of the 18 U.S.C. § 3553(a) sentencing factors, and not adequately explaining the basis for its upward variance from the Guidelines range. The record belies these contentions. The district court considered the Guidelines and the section 3553(a) factors, and adequately explained the sentence imposed. *See United States v. Carty*, 520 F.3d 984, 991-92 (9th Cir. 2008) (en banc).

Mendoza-Naranjo also contends that his above-Guidelines sentence is substantively unreasonable because it is greater than necessary to satisfy the purposes of section 3553(a). The sentence imposed is substantively reasonable in light of the totality of the circumstances and the section 3553(a) sentencing factors. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.