

JUL 03 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NOT FOR PUBLICATION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.

OLIVERIO ARELLANO-AVILES,

Defendant - Appellant.

No. 10-10488

D.C. No. 2:10-cr-00151-GMN

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, District Judge, Presiding

Submitted June 26, 2012**

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

Oliverio Arellano-Aviles appeals from the 33-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. App. P. 34(a)(2).

U.S.C. § 1291, and we affirm.

Arellano-Aviles contends that the district court procedurally erred when it failed to explain adequately why it rejected his arguments for a more lenient sentence based on the minor nature of his aggravated felony conviction. The record belies his contention. The district court considered Arellano-Aviles's mitigating arguments and adequately explained that in light of his criminal history, a sentence at the bottom of the advisory Guidelines range was warranted. *See* 18 U.S.C. § 3553(a); *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc). In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, Arellano-Aviles's sentence is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.