

JUL 20 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NOT FOR PUBLICATION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.

ADELIN VELASQUEZ-AGUILAR,

Defendant - Appellant.

No. 10-10363

D.C. No. 4:09-cr-00451-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Adelin Velasquez-Aguilar appeals from the 60-month sentence imposed following his guilty-plea conviction for reentry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Velasquez-Aguilar first contends that the district court procedurally erred by failing to explain the reasons for the sentence and its rejection of his mitigating arguments, and by failing to consider the 18 U.S.C. § 3553(a) sentencing factors. The record reflects that the district court reviewed all of the evidence submitted, listened to the mitigating arguments, and considered the section 3553(a) sentencing factors. Nothing more was required. *See Rita v. United States*, 551 U.S. 338, 358-59 (2007). Velasquez-Aguilar further contends that the district court failed to appreciate its discretion to vary downward based on the nature of his prior conviction for transporting illegal aliens. This contention is not supported by the record.

Velasquez-Aguilar finally contends that his sentence is substantively unreasonable. Under the totality of the circumstances, including Velasquez-Aguilar's criminal history and two previous deportations, the sentence 17 months below the Guidelines range is substantively reasonable. *See* 18 U.S.C. § 3553(a); *Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.