

DEC 31 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NOT FOR PUBLICATION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.

PABLO COLIN-MOLINA,

Defendant - Appellant.

No. 12-30034

D.C. No. 2:11-cr-00077-LRS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Lonny R. Suko, District Judge, Presiding

Submitted December 19, 2012**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Pablo Colin-Molina appeals from the district court's judgment and challenges the 60-month sentence imposed following his guilty-plea conviction for being an alien found in the United States 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).

Colin-Molina argues that his sentence is substantively unreasonable in light of his cultural assimilation, his reasons for returning to the United States, the age of the conviction that triggered the 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii), and his plans to build a life in Mexico after his release from prison. He also argues that section 2L1.2(b) is an unreasonable guideline. We review for abuse of discretion, *see Gall v. United States*, 552 U.S. 38, 51 (2007), and consider policy challenges to a guideline only as they bear upon the reasonableness of the sentence in a given case, *see United States v. Barsumyan*, 517 F.3d 1154, 1159 (9th Cir. 2008). The 60-month sentence imposed in this case is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, which include a criminal and immigration history that reflects a need for deterrence, protection of the public, and the promotion of respect for the criminal and immigration laws of the United States. *See Gall*, 552 U.S. at 51.

AFFIRMED.