

JAN 23 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>OSCAR RENE MONJARAZ-PINTO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 11-10620

D.C. No. 4:10-cr-03612-DCB-
JJM-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted January 18, 2013**
San Francisco, California

Before: NOONAN, TASHIMA, and GRABER, Circuit Judges.

Defendant Oscar Rene Monjaraz-Pinto appeals his conviction for illegal reentry after removal in violation of 8 U.S.C. § 1326 and the resulting sentence of 63 months' imprisonment. We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

1. The district court did not err in holding that Defendant failed to make a prima facie showing of the affirmative defense of duress. Defendant's fears of poor treatment by police and prison officials were not akin to persecutors who "figuratively held a gun to his head." United States v. Vasquez-Landaver, 527 F.3d 798, 802 (9th Cir. 2008) (internal quotation marks omitted).

2. As Defendant now concedes, the district court correctly applied the 16-level enhancement under U.S.S.G. § 2L1.2. United States v. Flores-Mejia, 687 F.3d 1213, 1215–16 (9th Cir. 2012); United States v. Bonilla-Montenegro, 331 F.3d 1047, 1051 (9th Cir. 2003).

3. Defendant's sentence at the low end of the Guidelines range was substantively reasonable. United States v. Carty, 520 F.3d 984, 996 (9th Cir. 2008) (en banc).

AFFIRMED.