

MAR 22 2013

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NOT FOR PUBLICATION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 FRANCISCO AVILA-COTA, a.k.a.  
Francisco Avila, a.k.a. Francisco Avila-  
Cota, a.k.a. Jose F. Avila-Cota,

Defendant - Appellant.

Nos. 11-10331

11-10332

D.C. Nos. 4:10-cr-50184-DCB

4:10-cr-01512-DCB

MEMORANDUM\*

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

Submitted March 12, 2013\*\*

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Jose Francisco Avila-Cota appeals from the district court's judgment and challenges the 57-month sentence imposed following his jury-trial conviction for reentry after deportation, in violation of 8 U.S.C. § 1326, and the 21-month

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\* 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).

consecutive sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Avila-Cota contends the district court procedurally erred by failing to consider all of the 18 U.S.C. § 3553(a) sentencing factors and by failing to explain the sentence imposed. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The district court adequately considered the section 3553(a) sentencing factors and explained the sentence sufficiently to permit appellate review. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

Avila-Cota next contends that the district court violated the parsimony principle and imposed a substantively unreasonable sentence by giving too much weight to recidivism. The district court did not abuse its discretion in imposing Avila-Cota's sentences. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Avila-Cota's consecutive sentences are substantively reasonable in light of the section 3553(a) sentencing factors and the totality of the circumstances, including Avila-Cota's extensive criminal history. *See id.*

**AFFIRMED.**