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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NOT FOR PUBLICATION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>GERLY ALVAREZ,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 12-10574

D.C. No. 2:12-cr-00074-LRH

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Larry R. Hicks, District Judge, Presiding

Submitted July 24, 2013\*\*

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Gerly Alvarez appeals from the district court’s judgment and challenges the 51-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 U.S.C. § 1291, and we affirm.

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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).

Alvarez contends that the district court imposed a substantively unreasonable sentence in light of his mitigating factors, namely his troubled youth, strides towards rehabilitation, and the minor nature and age of his prior convictions. The district court did not abuse its discretion in imposing Alvarez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence at the bottom of the Guidelines range is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including the fact that Alvarez's offense involved an attempt to smuggle illegal aliens across the border. *See id.*

**AFFIRMED.**