

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 20 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE SILVINO IBARRA-MURIETTA,
aka Jose Silvino Ortiz-Castaneda,

Defendant - Appellant.

No. 12-50265

D.C. No. 3:08-cr-01170-L-1

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE SILVINO IBARRA-MURIETTA,
aka Jose Silvino Ortiz-Castaneda,

Defendant - Appellant.

No. 12-50266

D.C. No. 3:11-cr-02653-WQH-1

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding
William Q. Hayes, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted August 1, 2013 **

Before: GRABER, WARDLAW, and PAEZ, Circuit Judges.

Jose Silvino Ibarra-Murietta appeals from the district court's judgment and challenges the 87-month sentence imposed following his guilty-plea conviction for assault on a federal officer, in violation of 18 U.S.C. § 111; and being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. He also appeals from the 24-month sentence imposed following revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court did not abuse its discretion in imposing Ibarra's 87-month sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See id.*

The district court also did not abuse its discretion in imposing the 24-month sentence upon revocation of supervised release. *See id.* Contrary to Ibarra's contention, the sentence is substantively reasonable and the district court properly considered Ibarra's prior violent crimes in assessing the need to protect the public from further crimes. *See* 18 U.S.C. § 3583(e).

AFFIRMED.

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