

OCT 03 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NOT FOR PUBLICATION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.

MATEO GOMEZ SILVESTRE-DIEGO,
a.k.a. El Tigre, a.k.a. Mateo Gomez
Silvestre,

Defendant - Appellant.

No. 11-50415

D.C. No. 2:10-cr-01057-ODW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Mateo Gomez Silvestre-Diego appeals from the district court’s judgment and challenges the 96-month sentence imposed following his guilty-plea conviction for conspiracy to harbor and transport illegal aliens, in violation of 8

* 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).

U.S.C. § 1324(a)(1)(A)(v)(I). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Silvestre-Diego contends that the district court procedurally erred when it based his sentence on an unsubstantiated assumption regarding the frequency with which he engaged in spousal abuse. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. Any factual error by the district court did not affect the sentence imposed. *See United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008).

AFFIRMED.