

OCT 03 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALFREDO MENDOZA-ALVAREZ,

Defendant - Appellant.

No. 12-30186

D.C. No. 2:10-cr-02140-FVS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted September 24, 2013**

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

Alfredo Mendoza-Alvarez appeals from the district court’s judgment and challenges the 27-month term of supervised release imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Mendoza-Alvarez contends that the district court procedurally erred by

* 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).

failing to consider and explain why a new term of supervised release was warranted in light of U.S.S.G. § 5D1.1(c) (2011), which directs that a district court ordinarily should not impose a term of supervised release if the defendant is a deportable alien. The record reflects that the district court considered section 5D1.1(c) and adequately explained why it declined to follow it. Contrary to Mendoza-Alvarez's contention, no written statement of reasons was required because the district court imposed a term of supervised release within the Guidelines range. *See* 18 U.S.C. § 3553(c)(2); U.S.S.G. § 7B1.3(g)(2); *United States v. Valdavinos-Torres*, 704 F.3d 679, 693 (9th Cir. 2012) (“no departure analysis is triggered” by the imposition of supervised release because section 5D1.1(c) is not mandatory).

Mendoza-Alvarez also challenges the term of supervised release as substantively unreasonable. The district court did not abuse its discretion in imposing a 27-month term of supervised release. *See Valdavinos-Torres*, 704 F.3d at 692. The sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Mendoza-Alvarez's numerous prior deportations. *See id.* at 692-93; *see also* U.S.S.G. § 5D1.1(c) cmt. n.5 (district court should consider imposing term of supervised release on deportable alien if it determines supervised release would

provide an added measure of deterrence and protection).

AFFIRMED.