

OCT 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NOT FOR PUBLICATION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.

ESWIN CIFUENTES-LOPEZ,

Defendant - Appellant.

No. 12-50359

D.C. No. 3:11-cr-04336-BEN

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted September 16, 2013**

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Eswin Cifuentes-Lopez appeals from the district court's judgment and challenges the 57-month sentence imposed following his guilty-plea conviction for attempted entry after deportation, in violation of 8 U.S.C. § 1326. We dismiss.

* 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).

Cifuentes-Lopez contends that the district court failed to give meaningful consideration to all of the 18 U.S.C. § 3553(a) factors and to his arguments for a variance from the advisory Sentencing Guidelines range. He further contends that the court gave too much weight to his criminal history and “violent nature” and that the resulting sentence is substantively unreasonable.

The government submits that the appeal is barred by the waiver in the parties’ plea agreement. We review de novo and conclude that the waiver is valid and binding and bars the appeal. *See United States v. Bibler*, 495 F.3d 621, 623-24 (9th Cir. 2007).

DISMISSED.