

DEC 30 2013

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>v.</p> <p>PEDRO ALVAREZ-SANCHEZ, a.k.a. Alfredo Gomez,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 13-10224

D.C. No. 2:12-cr-00168-JCM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Submitted December 17, 2013**

Before: GOODWIN, WALLACE, and GRABER, Circuit Judges.

Pedro Alvarez-Sanchez appeals from the district court’s judgment and challenges the 56-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, 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. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Alvarez-Sanchez contends that his sentence is substantively unreasonable because the district court's downward variance did not reflect the full amount of time he served in state custody before he was indicted on the instant charge. The district court did not abuse its discretion in imposing Alvarez-Sanchez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The record reflects that the district court considered Alvarez-Sanchez's state sentence when it varied downward to impose a below-Guidelines sentence. The sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Alvarez-Sanchez's criminal history and multiple deportations. *See id.*

Because Alvarez-Sanchez is represented by counsel, we do not consider his pro se motion to vacate sentence.

AFFIRMED.