

FEB 27 2014

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NOT FOR PUBLICATION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.

FRANCISCO MORELOS-GRACIDAS,
a.k.a. Francisco Moreles, a.k.a. Francisco
Morelos, a.k.a. Francisco Morelos-
Gonzalez,

Defendant - Appellant.

No. 13-10358

D.C. No. 4:13-cr-00025-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, Chief Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O’SANNLAIN, and FERNANDEZ, Circuit Judges.

Francisco Morelos-Gracidas appeals from the district court’s judgment and challenges the 37-month sentence imposed following his guilty-plea conviction for

* 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).

attempted reentry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Morelos-Gracidas contends that the district court erred by failing to discuss its reasons for declining to give him a downward departure or variance for cultural assimilation. We do not review this claim except as part of our review of the substantive reasonableness of the sentence. *See United States v. Vasquez-Cruz*, 692 F.3d 1001, 1004-08 (9th Cir. 2012), *cert. denied*, 134 S. Ct. 76 (2013). Contrary to Morelos-Gracidas's argument, the district court did not abuse its discretion in imposing his sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The below-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Morelos-Gracidas's criminal and immigration history. *See id.*

AFFIRMED.