

MAR 17 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NOT FOR PUBLICATION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.

GREGORY ANTHONY FLORES, a.k.a.
Greg Flores, a.k.a. Gregor A. Flores, a.k.a.
Gregory Flores,

Defendant - Appellant.

No. 12-50353

D.C. No. 5:10-cr-00027-VAP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted March 10, 2014**

Before: PREGERSON, LEAVY, and MURGUIA, Circuit Judges.

Gregory Anthony Flores appeals from the district court’s judgment and challenges the 144-month sentence imposed following his guilty-plea conviction for wire fraud conspiracy, in violation of 18 U.S.C. §§ 1343 and 1349; and tax

* 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).

evasion, in violation of 26 U.S.C. § 7201. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Flores contends that his sentence is substantively unreasonable in light of his age and poor health, and because U.S.S.G. § 2B1.1 lacks proper empirical foundation. The district court did not abuse its discretion in imposing Flores's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Flores's offense conduct. *See id.* Moreover, the district court was under no obligation to vary from the Guidelines based on policy considerations. *See United States v. Carper*, 659 F.3d 923, 925 (9th Cir. 2011).

AFFIRMED.