

JUN 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NOT FOR PUBLICATION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.

ERLYN EDWARD BISHOP,

Defendant - Appellant.

No. 13-10339

D.C. No. 2:11-cr-00307-KJD

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Kent J. Dawson, District Judge, Presiding

Submitted June 25, 2014\*\*

Before: HAWKINS, TALLMAN, and NGUYEN, Circuit Judges.

Erlyn Edward Bishop appeals from the district court's judgment and challenges the 77-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Bishop contends that the district court should have departed or varied downward from the advisory Guidelines range on the basis of his cultural assimilation and because the 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A) overstated the seriousness of his criminal history. Our review of this claim is limited to determining whether the court imposed a substantively reasonable sentence. *See United States v. Vasquez-Cruz*, 692 F.3d 1001, 1005 (9th Cir. 2012), *cert. denied*, 134 S. Ct. 76 (2013). The district court did not abuse its discretion in imposing Bishop's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence at the bottom of the Guidelines range is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Bishop's extensive criminal and immigration history. *See* U.S.S.G. § 2L1.2 cmt. n.8; *Gall*, 552 U.S. at 51.

**AFFIRMED.**