

JUN 27 2014

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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NOT FOR PUBLICATION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>SERGIO MONTES-RAMIREZ, a.k.a. Sergio Ramirez,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 13-10684

D.C. No. 4:13-cr-00973-RCC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Linda R. Reade, District Judge, Presiding\*\*

Submitted June 25, 2014\*\*\*

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

Sergio Montes-Ramirez appeals from the district court’s judgment and challenges the 12-month sentence imposed following his guilty-plea conviction for

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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 Honorable Linda R. Reade, Chief Judge for the Northern District of Iowa, sitting by designation.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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

Montes-Ramirez contends that the district court procedurally erred by basing his sentence on the clearly erroneous factual determination that his prior conviction was a sexual offense. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The record reflects that the court expressly declined to characterize Montes-Ramirez's prior crime as a sexual offense and imposed the sentence on the basis of Montes-Ramirez's criminal and immigration history.

**AFFIRMED.**