

AUG 18 2014

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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>MELQUIADES SIMON-HERNANDEZ,</p> <p>Defendant - Appellant.</p>
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No. 13-30293

D.C. No. 3:13-cr-00149-SI

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael H. Simon, District Judge, Presiding

Submitted August 13, 2014**

Before: SCHROEDER, THOMAS, and HURWITZ, Circuit Judges.

Melquiades Simon-Hernandez appeals from the district court’s judgment and challenges the 30-month sentence imposed following his guilty-plea conviction for illegal reentry, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Simon-Hernandez contends that his sentence is substantively unreasonable. He argues that a 30-month sentence is unnecessary because he has already begun to rehabilitate and he has solid post-incarceration plans. In addition, he argues that the district court placed too much weight on his prior convictions and not enough on his current character. The district court did not abuse its discretion in imposing Simon-Hernandez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 30-month sentence, at the high end 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 Simon-Hernandez's prior illegal reentry offense and history of driving under the influence. *See id.*; *see also United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) ("The weight to be given the various factors in a particular case is for the discretion of the district court.").

AFFIRMED.