

JAN 27 2015

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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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>ARISTEO ORTIZ-SANCHEZ, a.k.a. Aristeo Cortez-Sanchez, a.k.a. Mario Gomez-Sanchez, a.k.a. Aristeo Sanchez Ortiz, a.k.a. Miguel Sanchez-Cortez, a.k.a. Teo, a.k.a. Geraldo Valencia,</p> <p>Defendant - Appellant.</p>

No. 14-50160

D.C. No. 3:14-cr-00044-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted January 21, 2015**

Before: CANBY, GOULD, and N.R. SMITH, Circuit Judges.

Aristeo Ortiz-Sanchez appeals from the district court’s judgment and challenges the 75-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).

being a removed alien found in the United States, in violation of 8 U.S.C. § 1326.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Ortiz-Sanchez contends that the district court's discretionary denial of a fast-track departure under U.S.S.G. § 5K3.1 rendered his sentence substantively unreasonable. "In analyzing challenges to a court's upward and downward departures . . . under Section 5K, we do not evaluate them for procedural correctness, but rather, as part of a sentence's substantive reasonableness." *United States v. Ellis*, 641 F.3d 411, 421 (9th Cir. 2011). The district court did not abuse its discretion in imposing Ortiz-Sanchez'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 Ortiz-Sanchez's criminal history and numerous prior deportations. *See Gall*, 552 U.S. at 51.

AFFIRMED.