

MAY 18 2015

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NOT FOR PUBLICATION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.

DANIEL CARREON-ORTIZ,

Defendant - Appellant.

No. 14-50532

D.C. No. 3:14-cr-02521-LAB

MEMORANDUM*

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

Submitted May 13, 2015**

Before: LEAVY, CALLAHAN, and M. SMITH, Circuit Judges.

Daniel Carreon-Ortiz appeals from the district court's judgment and challenges the 12-month sentence imposed following his guilty-plea conviction for 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.

* 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).

Carreon-Ortiz contends that his sentence is substantively unreasonable because the district court (i) granted a two-level rather than a four-level fast-track departure, which resulted in an unwarranted sentencing disparity; and (ii) considered him to be a danger to the public despite his success in battling alcoholism. The district court did not abuse its discretion in imposing Carreon-Ortiz's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence at the top 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 Carreon-Ortiz's extensive immigration history and the need for deterrence. *See Gall*, 552 U.S. at 51.

AFFIRMED.