

OCT 19 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NOT FOR PUBLICATION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.

HECTOR MURCIA RAMIREZ, a.k.a.
Hector Murica Ramirez,

Defendant - Appellant.

No. 14-50389

D.C. No. 8:14-cr-00050-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted October 14, 2015**

Before: SILVERMAN, BYBEE, and WATFORD, Circuit Judges.

Hector Murcia Ramirez appeals from the district court's judgment and challenges the 37-month sentence imposed following his guilty-plea conviction for being an illegal alien found in the United States following deportation, in violation

* 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).

of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm but remand with instructions to the district court to correct the judgment.

Ramirez argues that his sentence is substantively unreasonable in light of his alleged cultural assimilation, and because his prior conviction for drug trafficking, which triggered a 16-level sentencing enhancement, is “relatively non-serious” and stale. The district court did not abuse its discretion in imposing Ramirez’s sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The below-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Ramirez’s criminal and immigration history. *See Gall*, 552 U.S. at 51.

In accordance with *United States v. Rivera-Sanchez*, 222 F.3d 1057, 1062 (9th Cir. 2000), we remand the case to the district court with instructions that it delete from the judgment the reference to section 1326(b)(2).

AFFIRMED; REMANDED to correct the judgment.