

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 24 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDWIN VALLADARES-FERNANDEZ,
a.k.a. Eduin Fernandez, a.k.a. Eduyn
Modesto Valladares-Fernandez,

Defendant - Appellant.

No. 14-10538

D.C. No. 2:13-cr-00424-LDG

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Lloyd D. George, District Judge, Presiding

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Edwin Valladares-Fernandez appeals from the district court's judgment and challenges the 57-month custodial sentence and the three-year term of supervised release imposed following his guilty-plea conviction for being a deported alien

* 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).

found unlawfully in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Valladares-Fernandez argues that the district court procedurally erred by failing to address his cultural assimilation argument. 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 district court considered Valladares-Fernandez's mitigating arguments and adequately explained the sentence. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

Valladares-Fernandez also contends that his custodial sentence and supervised release term are substantively unreasonable in light of his cultural assimilation and status as a deportable alien. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence and three-year supervised release term are substantively reasonable in light of the totality of the circumstances, including Valladares-Fernandez's criminal history and his recent arrests. *See id.*; *see also* U.S.S.G. § 5D1.1 cmt. n.5 (supervised release for a deportable alien is appropriate if it would provide an added measure of deterrence and protection).

AFFIRMED.