

JAN 28 2016

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NOT FOR PUBLICATION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.

LUIS GOMEZ-PEREZ, a.k.a. Luis Perez-
Gomez,

Defendant - Appellant.

No. 14-50474

D.C. No. 3:14-cr-01892-LAB

MEMORANDUM*

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

Submitted January 20, 2016**

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

Luis Gomez-Perez appeals from the district court's judgment and challenges the 16-month custodial sentence and three-year term of supervised release imposed following his guilty-plea conviction for being a removed alien found in the United

* 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).

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

Gomez-Perez contends that the district court abused its discretion by denying the parties' joint request for a fast-track departure under U.S.S.G. § 5K3.1. However, the record reflects that the district court properly based its denial of the fast-track departure on individualized factors, rather than a blanket policy of denying fast-track departures to a certain group of defendants. *See United States v. Rosales-Gonzales*, 801 F.3d 1177, 1183-84 (9th Cir. 2015).

We likewise reject Gomez-Perez's argument that the district court's denial of the fast-track departure improperly interfered with the prosecutor's exercise of discretion in plea bargaining or otherwise violated the separation of powers doctrine. *See id.* at 1183.

Finally, Gomez-Perez argues that his custodial sentence and term of supervised release are substantively unreasonable in light of the mitigating factors and the court's allegedly erroneous denial of the fast-track departure. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the applicable 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See id.*

AFFIRMED.