

MAR 24 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NOT FOR PUBLICATION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.

FEDERICO MARTINEZ ARROYO,

Defendant - Appellant.

No. 15-10141

D.C. No. 4:14-cr-00340-JAS-
LAB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James Alan Soto, District Judge, Presiding

Submitted March 22, 2016**

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Frederico Martinez Arroyo appeals from the district court's judgment and challenges the 57-month sentence imposed following his guilty-plea convictions for possession with intent to distribute cocaine and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C), and

* 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).

importation of cocaine and importation of methamphetamine, in violation of 21 U.S.C. §§ 952(a) and 960(b)(3). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Martinez Arroyo contends that the district court procedurally erred at sentencing by failing to address his argument that he should receive a lower sentence because of his need for medical care and his age. Because Martinez Arroyo did not object on these grounds below, we review for plain error. *See United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010); *United States v. Dallman*, 533 F.3d 755, 761-62 (9th Cir. 2008).

The record indicates that the district court listened to the attorneys' simple and straightforward arguments for a variance based on Martinez Arroyo's age and health and imposed a substantial downward variance. Martinez Arroyo offers no evidence or argument that the sentence would have been lower if the court had more explicitly addressed his age and health arguments. Thus, Martinez Arroyo has not shown that the district court committed an error that was plain and affected his substantial rights. *See Rita v. United States*, 551 U.S. 338, 356-59 (2007); *United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008) (en banc); *Dallman*, 533 F.3d at 761-62.

AFFIRMED.