

JUN 20 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NOT FOR PUBLICATION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.

JOSE PARRA-TEJEDA, a.k.a. Jose Parra-
Tejada,

Defendant - Appellant.

No. 15-30134

D.C. No. 2:14-cr-00112-TOR

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Thomas O. Rice, Chief Judge, Presiding

Submitted June 14, 2016**

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Jose Parra-Tejada appeals from the district court's judgment and challenges the 33-month sentence imposed following his guilty-plea conviction for being an

* 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).

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

Parra-Tejeda contends that his sentence is substantively unreasonable in light of the mitigating factors and the 12-level enhancement he received under U.S.S.G. § 2L1.2(b)(1)(A). The district court did not abuse its discretion in imposing Parra-Tejeda's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Parra-Tejeda's criminal history and his failure to be deterred by a prior 33-month sentence for the same offense. *See Gall*, 552 U.S. at 51; *see also United States v. Ruiz-Chairez*, 493 F.3d 1089, 1091 (9th Cir. 2007) (rejecting empirical challenge to section 2L1.2(b)(1)(A)). Moreover, contrary to Parra-Tejeda's contention, the record reflects that the district court considered his arguments for a lower sentence. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

AFFIRMED.