

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 19 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-50109

Plaintiff-Appellee,

D.C. No. 3:15-cr-02489-MMA

v.

MEMORANDUM\*

ERNESTO CASILLAS-PEREZ,

Defendant-Appellant.

Appeal from the United States District Court  
for the Southern District of California  
Michael M. Anello, District Judge, Presiding

Submitted April 11, 2017\*\*

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Ernesto Casillas-Perez appeals from the district court's judgment and challenges the 41-month sentence imposed following his guilty-plea conviction for being a removed alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Casillas-Perez contends that the district court procedurally erred by basing his sentence on the erroneous belief that he was on supervised release at the time of the offense. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and conclude there was none. Contrary to Casillas-Perez's contention, the court's mention of his breach of the court's trust does not reflect that the court believed that he was on supervised release. In any event, Casillas-Perez has not shown that any error affected his substantial rights. *See United States v. Dallman*, 533 F.3d 755, 761-62 (9th Cir. 2008).

**AFFIRMED.**