

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 2 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ALFREDO DE JESUS-PEREZ,

Defendant-Appellant.

No. 16-50458

D.C. No. 3:16-cr-00726-L

MEMORANDUM\*

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

Submitted September 26, 2017\*\*

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Alfredo De Jesus-Perez appeals from the district court's judgment and challenges the above-Guidelines sentence of 34 months 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

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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).

we affirm.

De Jesus-Perez contends that the above-Guidelines sentence is substantively unreasonable. We review sentencing decisions for abuse of discretion, *see United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc), and will not overturn a district court's sentencing determination absent procedural error or substantive unreasonableness, *see Gall v. United States*, 552 U.S. 38, 56 (2007).

The district court permissibly considered De Jesus-Perez's prior illegal reentry conviction and determined that a greater sentence for the instant offense was necessary to deter De Jesus-Perez from reoffending. *See United States v. Higuera-Llamas*, 574 F.3d 1206, 1211-12 (9th Cir. 2009). The 34-month sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) factors and the totality of the circumstances, including the need to achieve adequate deterrence. *See Gall*, 552 U.S. at 51.

**AFFIRMED.**