

MAR 21 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NOT FOR PUBLICATION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.

OCTAVIO VARGAS-GUZMAN,

Defendant - Appellant.

No. 14-50569

D.C. No. 3:10-cr-01577-LAB

MEMORANDUM*

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

Submitted March 15, 2016**

Before: GOODWIN, LEAVY, and CHRISTEN, Circuit Judges.

Octavio Vargas-Guzman appeals from the district court's judgment and challenges the 14-month sentence imposed upon revocation of supervised release.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Vargas-Guzman contends that the district court procedurally erred by failing to explain the sentence sufficiently and respond to his mitigating argument that he entered the United States to care for his family during an emergency. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The record reflects that the district court responded to Vargas-Guzman's mitigating argument and adequately explained the sentence. *See Rita v. United States*, 551 U.S. 338, 358-59 (2007).

Vargas-Guzman also contends that the sentence is substantively unreasonable. The district court did not abuse its discretion in imposing Varg-Guzman's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Varg-Guzman's criminal and immigration history. *See Gall*, 552 U.S. at 51; *United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007).

AFFIRMED.