

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JORGE GOMEZ-GOMEZ,

Defendant-Appellant.

No. 20-50163

D.C. No. 3:17-cr-01287-LAB-1

MEMORANDUM*

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

Submitted March 16, 2021**

Before: GRABER, R. NELSON, and HUNSAKER, Circuit Judges.

Jorge Gomez-Gomez appeals from the district court's judgment and challenges the 99-month sentence and one condition of supervised release imposed upon remand following his jury-trial conviction for attempted reentry of a removed alien, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291, and we affirm.

Gomez-Gomez first contends that the district court erred procedurally by insufficiently explaining the sentence. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and conclude that there is none. The district court considered and rejected Gomez-Gomez's arguments for a shorter sentence, including the circumstances of the ongoing COVID-19 pandemic. And it explained in detail how Gomez-Gomez's immigration and criminal history justified the above-Guidelines sentence.

Gomez-Gomez also contends that the sentence is substantively unreasonable. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See Gall*, 552 U.S. at 51.

Finally, Gomez-Gomez contends that the district court's imposition in the written judgment of the standard supervised release condition that Gomez-Gomez not commit any federal, state, or local crime conflicts with its oral pronouncement of the condition. We disagree. Read in context, the court's oral pronouncement was a shorthand description of the condition contained in the written judgment. To the extent the district court's oral pronouncement was ambiguous, the later written judgment clarified the ambiguity. *See United States v. Garcia*, 37 F.3d 1359, 1368

(9th Cir. 1994), *abrogated on other grounds by United States v. Jackson*, 167 F.3d 1280 (9th Cir. 1999).

AFFIRMED.