

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 19 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

HEBER ANDERSON DE LEON-
CABRERA, AKA Heber Anderson Deleon,
AKA Anderson Heber Deleon-Cabrera,

Defendant-Appellant.

No. 22-10320

D.C. No. 4:22-cr-00037-JGZ-JR-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Jennifer G. Zipps, District Judge, Presiding

Submitted September 12, 2023**

Before: CANBY, CALLAHAN, and OWENS, Circuit Judges.

Heber Anderson de Leon-Cabrera appeals from the district court's judgment and challenges the 40-month term of imprisonment and 3-year term of supervised release imposed following his guilty-plea conviction for reentry of a removed

* 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).

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

De Leon-Cabrera contends that the district court procedurally erred by failing to consider or address his argument that incremental sentencing does not reduce recidivism. 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 record reflects that the district court listened to de Leon-Cabrera's argument but was unpersuaded by it. The court explained that the within-Guidelines terms of imprisonment and supervised release were warranted in light of de Leon-Cabrera's significant immigration history and his remaining ties to the United States. This was sufficient. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc); *United States v. Valdavinos-Torres*, 704 F.3d 679, 693 (9th Cir. 2012).

AFFIRMED.