

SEP 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>RAMON ESPERANZA CARRILLO,</p> <p>Defendant - Appellant.</p>
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No. 09-50158

D.C. No. 3:08-CR-01446-WQH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Ramon Esperanza Carrillo appeals from the 27-month sentence imposed following his guilty-plea conviction for being a deported 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.

* 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).

Carrillo contends that the district court procedurally erred by not responding to his non-frivolous arguments in mitigation. The record reflects that the district court carefully considered the 18 U.S.C. § 3553(a) sentencing factors, including Carrillo's arguments in mitigation, before concluding that the circumstances were insufficient to warrant a sentence below the one imposed. The district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir.2008) (en banc).

Carrillo also contends that his sentence is substantively unreasonable. In light of the totality of the circumstances, the district court's within-Guidelines sentence is substantively reasonable. *See Carty*, 520 F.3d at 993.

AFFIRMED.