

OCT 27 2010

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NOT FOR PUBLICATION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.

MARTIN MARTINEZ-ALAVAREZ,

Defendant - Appellant.

No. 09-50554

D.C. No. 3:07-cr-01598-JAH

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Martin Martinez-Alavarez appeals from the 60-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).

Martinez-Alavarez contends that the district court procedurally erred by failing to adequately explain the reasons for the sentence and by failing to address Martinez-Alavarez's request for a downward departure. He also contends that his sentence is substantively unreasonable. The district court did not procedurally err, and the below-Guidelines range sentence is substantively reasonable. *See United States v. Carter*, 560 F.3d 1107, 1117-19 (9th Cir. 2009); *United States v. Carty*, 520 F.3d 984, 992-95 (9th Cir. 2008) (en banc).

AFFIRMED.