

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JESUS MARTINEZ-PEREZ, a.k.a. Jesus  
Perez-Martinez,

Defendant-Appellant.

No. 18-50133

D.C. No. 3:17-cr-04139-LAB

MEMORANDUM\*

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

Submitted December 17, 2018\*\*

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Jesus Martinez-Perez appeals from the district court's judgment and challenges the 30-month sentence imposed following his guilty-plea conviction for being a removed 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 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).

Martinez-Perez argues that his criminal record and immigration history were not aggravated enough to justify an upward variance from the Guidelines range. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The above-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Martinez-Perez's numerous removals and deportations from the United States, his failure to be deterred by prior sentences for illegal reentry, and his continued commission of offenses that could endanger the public. *See Gall*, 552 U.S. at 51.

**AFFIRMED.**