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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NOT FOR PUBLICATION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 VASQUEZ HERNANDEZ,

Defendant - Appellant.

No. 09-50627

D.C. No. 3:09-cr-02508-JAH

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Martin Vasquez Hernandez 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).

Vasquez Hernandez contends that his sentence is substantively unreasonable because it is greater than necessary to accomplish the statutory purposes of sentencing when considered in light of the mitigating factors that he presented. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, Vasquez Hernandez's below-Guidelines sentence is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc). Moreover, the district court did not procedurally err. *See United States v. Ressam*, 593 F.3d 1095, 1116 (9th Cir. 2010); *see also Carty*, 520 F.3d at 991-93.

AFFIRMED.