

FEB 17 2011

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NOT FOR PUBLICATION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.

BERNARDO MARTINEZ-OCAMPO,

Defendant - Appellant.

No. 10-50104

D.C. No. 3:09-cr-03412-GT

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Bernardo Martinez-Ocampo appeals from the 57-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-Ocampo contends that the district court procedurally erred in imposing his low-end Guideline sentence and that the sentence is substantively unreasonable. The record reflects that the district court did not procedurally err, *see United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc), and that, under the totality of the circumstances, the sentence at the bottom of the guidelines range is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also Carty*, 520 F.3d at 993.

AFFIRMED.