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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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>LUIS ALBERTO MORALES- CABALLERO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 11-50418

D.C. No. 3:11-cr-01752-LAB

MEMORANDUM*

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

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Luis Alberto Morales-Caballero appeals from the 45-month sentence imposed following his guilty-plea conviction for attempted entry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and

* 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).

we affirm.

Morales-Caballero contends that the district court procedurally erred by failing to consider the 18 U.S.C. § 3553(a) sentencing factors other than deterrence and by improperly considering the cost of prosecution at sentencing. The record belies these contentions. The district court adequately considered the section 3553(a) factors, and its passing mention of the cost of prosecution was a permissible explanation of the specific need for deterrence in this case.

Morales-Caballero also contends that his above-Guidelines sentence is substantively unreasonable. In light of the section 3553(a) sentencing factors and the totality of the circumstances, including the significant need for deterrence, the sentence is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.