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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NOT FOR PUBLICATION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.

HARLEY COMBRES,

Defendant - Appellant.

No. 12-30050

D.C. No. 1:11-cr-00046-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Harley Combres appeals from the 87-month sentence imposed following his guilty-plea conviction for attempted illegal export and concealing items for illegal export, in violation of 18 U.S.C. §§ 2 and 554. We have jurisdiction under 28

* 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).

U.S.C. § 1291, and we affirm.

Combres first contends that the district court violated Federal Rule of Criminal Procedure 32 by failing to resolve whether a statement made by Combres after his arrest was truthful. However, the district court expressly found that the statement was truthful. Accordingly, the court did not violate Rule 32. *See United States v. Kartermann*, 60 F.3d 576, 583 (9th Cir. 1995).

Combres next contends that his sentence is substantively unreasonable. The district court concluded that Combres's criminal history category failed to adequately reflect the seriousness of his past criminal conduct and likelihood to reoffend. This conclusion is supported by the record. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, Combres's sentence is substantively reasonable. *See United States v. Ellis*, 641 F.3d 411, 421-22 (9th Cir. 2011) (reviewing criminal history departure as part of a sentence's substantive reasonableness); *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.