

JAN 24 2014

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NOT FOR PUBLICATION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.

PONCIANO DIAZ-SOSA, a.k.a.
Guillermo Ortega Gonzalez,

Defendant - Appellant.

No. 13-50124

D.C. No. 3:10-cr-04099-IEG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Irma E. Gonzalez, District Judge, Presiding

Submitted January 21, 2014**

Before: CANBY, SILVERMAN, and PAEZ, Circuit Judges.

Ponciano Diaz-Sosa appeals from the district court's judgment and challenges the 12-month sentence imposed on revocation of supervised release.

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).

Diaz-Sosa contends that the district court procedurally erred by failing to pronounce the Guidelines range prior to imposing the sentence. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. Diaz-Sosa has not shown a reasonable probability that he would have received a different sentence had the district court reiterated the applicable Guidelines range immediately before pronouncing the below-Guidelines sentence. *See United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008).

Diaz-Sosa also contends that the district court procedurally erred by failing to address his mitigation arguments. The record shows the district court heard Diaz-Sosa's mitigation arguments and sufficiently explained the sentence. *See Rita v. United States*, 551 U.S. 338, 358-59 (2007).

AFFIRMED.