

DEC 12 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NOT FOR PUBLICATION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.

SERGIO RODRIGUEZ, a.k.a. Sergio
Iniguez Rodriguez,

Defendant - Appellant.

No. 13-50641

D.C. No. 2:12-cr-00988-DSF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted December 9, 2014**

Before: WALLACE, LEAVY, and BYBEE, Circuit Judges.

Sergio Rodriguez appeals from the district court’s judgment and challenges the 41-month sentence imposed following his guilty-plea conviction for being an illegal alien found in the United States after deportation, in violation of 8 U.S.C.

* 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).

§ 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Rodriguez contends that the 41-month sentence is substantively unreasonable. The district court did not abuse its discretion in imposing Rodriguez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence at the top of the advisory Guidelines range is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Rodriguez's extensive criminal and immigration history. *See id.*; *see also United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) ("The weight to be given the various factors in a particular case is for the discretion of the district court.").

AFFIRMED.