

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RUBEN NAVARRETE-FELIX,

Defendant-Appellant.

No. 19-50044

D.C. No. 3:18-cr-04116-LAB-1

MEMORANDUM\*

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

Submitted August 19, 2019\*\*

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

Ruben Navarrete-Felix appeals from the district court's judgment and challenges the 24-month sentence imposed following his guilty-plea conviction for being a removed 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.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Navarrete-Felix first contends that the district court abused its discretion by sentencing him in accordance with its blanket policy of imposing longer sentences on repeat illegal reentry offenders. The record shows that the district court denied the fast-track reduction and imposed an upward variance based on Navarrete-Felix's particular criminal and immigration history, rather than a blanket policy. Moreover, the above-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The court did not abuse its discretion in imposing Navarrete-Felix's sentence. *See United States v. Rosales-Gonzales*, 801 F.3d 1177, 1184-85 (9th Cir. 2015).

Navarrete-Felix also contends that the district court violated Federal Rule of Criminal Procedure 32 and due process by basing his sentence on unreliable facts and a policy disagreement with the government's fast-track policy. We review for plain error, *see United States v. Vanderwerfhorst*, 576 F.3d 929, 934 (9th Cir. 2009), and conclude that there is none. The record reflects that Navarrete-Felix was aware of all the facts relevant to the court's sentencing determination. *See United States v. Baldrich*, 471 F.3d 1110, 1114 (9th Cir. 2006) (describing the requirements of Rule 32). Moreover, Navarrete-Felix has not shown that his sentence was demonstrably based on any false or unreliable information or on the district court's alleged policy disagreement with the government. *See*

*Vanderwerfhorst*, 576 F.3d at 935-36.

Navarrete-Felix's unopposed motion for judicial notice is granted.

**AFFIRMED.**