

APPENDIX A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 5 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50359

Plaintiff-Appellee,

D.C. No. 3:17-cr-01172-LAB

v.

MEMORANDUM*

RENE ANTONIO AGUILAR,

Defendant-Appellant.

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

Submitted October 22, 2018**

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Rene Antonio Aguilar appeals from the district court's judgment and challenges the 48-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.

* 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).

Aguilar contends that the district court procedurally erred by failing to address his non-frivolous arguments for a lower sentence. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108, 1108 & n.3 (9th Cir. 2010), and conclude that there is none. The record reflects that the court considered Aguilar's mitigating arguments and was not persuaded that they warranted a lower sentence. *See United States v. Perez-Perez*, 512 F.3d 514, 516 (9th Cir. 2008).

Aguilar next contends that the district court erred by failing to explain adequately his above-Guidelines sentence. We conclude that the district court's explanation was sufficient to allow for meaningful review. *See Rita v. United States*, 551 U.S. 338, 356-57 (2007); *United States v. Leonard*, 483 F.3d 635, 637 (9th Cir. 2007).

AFFIRMED.