

APPENDIX A

NOT FOR PUBLICATION**FILED**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOV 5 2018

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RENE ANTONIO AGUILAR,

Defendant-Appellant.

No. 17-50359

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

MEMORANDUM*

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.