

MAY 01 2008

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NOT FOR PUBLICATION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.

FELIPE DANIEL TAPIA-ROMERO,
a/k/a David Perales Meraz, Daniel Pato,
Felipe Daniel Pato, Felipe Romero Pato,
Felipe Romero, Felipe Daniel Romero,
Daniel Sanchez, Danny Tapia, Felipe
Tapia, Felipe Daniel Tapia, Felipe Romero
Tapia, Felipe Daniel Topia,

Defendant - Appellant.

No. 05-50121

D.C. No. CR-04-00327-DSF

MEMORANDUM*

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

Argued and Submitted February 10, 2006
Pasadena, California
Submission deferred November 22, 2006
Resubmitted April 24, 2008

Before: BEEZER, T.G. NELSON, and GOULD, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Felipe Daniel Tapia-Romero appeals his sentence and several terms of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm on all but one issue in this memorandum disposition. We address the remaining issue—whether the district court erred by declining to consider, under 18 U.S.C. § 3553(a), the cost to society of a defendant’s term of imprisonment—in an accompanying opinion.

The sentence imposed by the district court was neither procedurally erroneous nor substantively unreasonable. *See United States v. Carty*, -- F.3d --, 2008 WL 763770, at *5 (9th Cir. Mar. 24, 2008) (“[O]nly a procedurally erroneous or substantively unreasonable sentence will be set aside.”). That the district court, after considering all the relevant facts, chose to place more emphasis on Tapia-Romero’s recidivism than on facts that *might* be interpreted to reflect more favorably on Tapia-Romero merely shows that the court appropriately exercised its discretion. *See id.* (“The abuse of discretion standard applies to all sentencing decisions . . .”).

The district court did not plainly err when it allowed the probation officer to determine Tapia-Romero’s share of the treatment costs. *See United States v. Dupas*, 419 F.3d 916, 922–24 (9th Cir. 2005). Finally, the district court did not violate Tapia-Romero’s Fifth Amendment rights when it imposed the reporting

requirement. *See United States v. Rodriguez-Rodriguez*, 441 F.3d 767, 772–73 (9th Cir. 2006).

AFFIRMED.