

MAR 10 2008

MOLLY DWYER, ACTING 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NOT FOR PUBLICATION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.

JOSE GARCIA-FLORES, also known as
Mario Martinez,

Defendant - Appellant.

No. 07-10143

D.C. No. CR-06-00553-MMC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Jose Garcia-Flores appeals from the 77-month sentence imposed following his guilty-plea conviction for illegal reentry of a removed alien, in violation of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Garcia-Flores contends that the district court erred by refusing to consider at sentencing the fact that he had rejected a fast-track plea agreement with a 51-month sentence. He further contends that, as a result, the district court was unable to consider whether there was an unwarranted disparity between his sentence and those imposed on similarly-situated defendants in the same federal district who accepted fast-track plea agreements. We conclude that the district court did not commit procedural error and that Garcia-Flores' sentence is reasonable. *See Gall v. United States*, 128 S. Ct. 586, 598-600 (2007); *see also United States v. Marcial-Santiago*, 447 F.3d 715, 718-19 (9th Cir.), *cert. denied*, 127 S. Ct. 309 (2006).

AFFIRMED.