

MAR 31 2009

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NOT FOR PUBLICATION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.

SERGIO MARTINEZ-FLORES,

Defendant - Appellant.

No. 08-10297

D.C. No. 2:07CR-00245-KJD

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Kent J. Dawson, District Judge, Presiding

Submitted March 18, 2009\*\*

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Sergio Martinez-Flores appeals from the 46-month sentence imposed following his guilty-plea conviction for being a deported alien found unlawfully in

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\* 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).

the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Martinez-Flores contends that the sentence is unreasonable because the district court failed to properly weigh some of the factors set forth in 18 U.S.C. § 3553(a) and improperly imposed a sentence within the applicable Sentencing Guidelines range. These contentions fail. *See Gall v. United States*, 128 S. Ct. 586, 600-02 (2007); *see also United States v. Booker*, 543 U.S. 220, 260-63 (2005).

**AFFIRMED.**