

APR 17 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO ACOSTA-LEON,

Defendant - Appellant.

No. 06-10579

D.C. No. CR-06-00575-DCB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Submitted April 13, 2009\*\*

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

Alejandro Acosta-Leon appeals from the 46 month sentence imposed following his guilty to plea to illegal re-entry after deportation in violation of 8

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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).

U.S.C. § 1326, enhanced by 8 U.S.C. § 1326(b)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

We disagree that because Acosta-Leon pleaded guilty in the early stages of the proceeding against him, the failure to afford him the same benefit afforded to those defendants who agree to the Government's standard written fast-track plea agreement was an unwarranted disparity and an equal protection violation. *See United States v. Gonzalez-Zotelo*, 556 F.3d 736, 740-41 (9th Cir. 2009) (sentencing disparity); *United States v. Marcial-Santiago*, 447 F.3d 715, 719 (9th Cir. 2006) (equal protection).

The district court did not abuse its discretion because it did not commit any significant procedural error and the sentence was reasonable. *See Gall v. United States*, 128 S. Ct. 586, 597 (2007).

Acosta-Leon's remaining contentions are unpersuasive.

**AFFIRMED.**