

DEC 29 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NOT FOR PUBLICATION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.

IGNACIO LARA VALENCIA,

Defendant - Appellant.

No. 07-30419

D.C. No. CR-05-00421-AJB

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Ignacio Lara Valencia appeals from the 168-month sentence imposed following his guilty-plea conviction for distributing over 50 grams of actual

* 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).

methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Valencia contends that the district court clearly erred when it imposed a two-level enhancement, pursuant to U.S.S.G. § 2D1.1(b)(1), for possessing a dangerous weapon, because the government failed to show Valencia had constructive possession over a weapon. Because there is a sufficient connection between Valencia and one of the weapons involved to support the inference that he exercised dominion and control over a weapon, we conclude that the district court did not clearly err. *Cf. United States v. Kelso*, 942 F.2d 680, 682 (9th Cir. 1991).

Valencia also contends that his sentence is greater than necessary in light of the 18 U.S.C. § 3553(a) sentencing factors. Given the totality of the circumstances, we conclude that Valencia's sentence is not unreasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.