

JAN 15 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NOT FOR PUBLICATION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.

JESSE FRANCISCO ROSALES,

Defendant - Appellant.

No. 08-10025

D.C. No. CR-05-00179-LJD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, Magistrate Judge, Presiding

Submitted December 17, 2008**

Before: WALLACE, TROTT and RYMER, Circuit Judges.

Jesse Francisco Rosales appeals from the 188-month sentence imposed following his guilty plea conviction to conspiracy to distribute and possess methamphetamine with intent to distribute in violation of 21 U.S.C. §§ 846,

* 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).

841(a)(1), (b)(1)(A), and 18 U.S.C. § 2. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Rosales did not object to the district court's consideration of the 18 U.S.C. § 3553(a) factors or to the explanation of the sentence at sentencing, and therefore we review the sentence for plain error. *United States v. Waknine*, 543 F.3d 546, 551 (9th Cir. 2008). Rosales did not file a sentencing memorandum, and the brief arguments he made at the sentencing hearing were specifically addressed by the district court. In addition, the low-end-of-the-guidelines sentence did not necessitate robust explanation. *See United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008). We conclude that any error the district court made at sentencing did not affect substantial rights nor affect the fairness, integrity, or public reputation of the proceedings, and therefore it was not plain error. *See Waknine*, 543 F.3d at 551.

AFFIRMED.