

MAR 27 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NOT FOR PUBLICATION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.

JOHN MATTHEW LORENTINE,

Defendant - Appellant.

No. 08-10192

D.C. No. 4:07-cr-00385-CKJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS and TASHIMA, Circuit Judges.

John Matthew Lorentine appeals from the 120-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to

* 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).

distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(vii) and 846.

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

Lorentine contends that the district court abused its discretion by refusing to accept the parties' plea agreement and sentencing the defendant to a term of imprisonment beyond the scope of that provided in the agreement without giving due consideration to the factors argued by counsel and outlined in 18 U.S.C.

§ 3553(a). We conclude that the district court did not abuse its discretion. *See In re Morgan*, 506 F.3d 705, 711-12 (9th Cir. 2007).

Lorentine also contends that the sentence is unreasonable because the district court failed to adequately consider the § 3553(a) factors and disregarded his mitigating evidence. We conclude that the district court did not procedurally err, and that the sentence imposed is substantively reasonable. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007); *see also United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.