

DEC 14 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NOT FOR PUBLICATION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.

DENISSE ENCINAS-MARTINEZ,

Defendant - Appellant.

No. 08-10548

D.C. No. 4:08-cr-00459-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, Chief District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Denisse Encinas-Martinez appeals from the 42-month sentence imposed following her guilty-plea conviction for possession with intent to distribute

* 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).

marijuana, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(vii), and employment or use of persons under 18 years of age in drug operations, in violation of 21 U.S.C. § 861(a)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Encinas-Martinez contends that her sentence is unreasonable because the district court did not grant a downward departure for imperfect duress pursuant to U.S.S.G. § 5K2.12. The record reflects that the district court did not procedurally err at sentencing, and that the below-Guidelines range sentence is substantively reasonable in light of the totality of the circumstances. *See United States v. Crowe*, 563 F.3d 969, 977-78 (9th Cir. 2009); *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc); *see also* U.S.S.G. § 5K2.12.

AFFIRMED.