

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NOT FOR PUBLICATION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.

KENDY CARPENTER,

Defendant - Appellant.

No. 09-30134

D.C. No. 6:08-CR-00017-CCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Charles C. Lovell, District Judge, Presiding

Submitted November 17, 2009**

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

Kendy Carpenter appeals from the 24-month sentence imposed following her guilty-plea conviction for bankruptcy fraud, violating the Federal False Claims

* 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). Accordingly, appellant's request for oral argument is denied.

Act, federal student loan fraud, and federal food stamp assistance fraud, in violation of 18 U.S.C. §§ 152(3), 287, 1001(a)(2) & (3). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Carpenter contends that the district court procedurally erred by applying an upward departure and that her sentence above the Guidelines range is substantively unreasonable. A review of record demonstrates that the district court properly considered the 18 U.S.C. § 3553(a) sentencing factors and that based on the totality of the circumstances, the sentence imposed is not substantively unreasonable. *See United States v. Vanderwerfhorst*, 576 F.3d 929, 935 (9th Cir. 2009); *see also United States v. Hilgers*, 560 F.3d 944, 947-48 (9th Cir. 2009).

AFFIRMED.