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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CESAR SOLANO-HERNANDEZ,

Defendant - Appellant.

No. 06-30424

D.C. No. CR-06-00021-FVS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Cesar Solano-Hernandez appeals from the 135-month sentence imposed following his guilty-plea conviction for distribution of 50 grams or more 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 concludes this case is 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). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Solano-Hernandez contends that the district court abused its discretion when it failed to grant his request for a downward departure, pursuant to U.S.S.G. § 4A1.3(b), based on his argument that his Criminal History Category overrepresented his prior convictions. We review the overall sentence for reasonableness. *See United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008). In light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, the sentence is reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.