

JAN 11 2010

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NOT FOR PUBLICATION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.

JEFFERY MARSHALL,

Defendant - Appellant.

No. 09-30070

D.C. No. 4:08-CR-00119-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted December 15, 2009**

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

Jeffery Marshall appeals from the 200-month sentence imposed following his 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 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.

Marshall contends that the within-Guidelines range sentence is substantively unreasonable because the district court's application of the career offender enhancement over-represented the seriousness of his past offenses. The record reflects that the district court gave thorough consideration to Marshall's arguments in support of his request for a sentence below the Guidelines range, but found the circumstances insufficient to warrant such a sentence. Furthermore, the district court conducted a reasoned and thorough analysis of the 18 U.S.C. § 3553(a) factors prior to imposing a sentence toward the lower end of the advisory Guidelines range. Accordingly, the sentence imposed is substantively reasonable. *See United States v. Stoterau*, 524 F.3d 988, 999-1002 (9th Cir. 2008).

AFFIRMED.