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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>RICHARD FERRERAS DAVID,</p> <p>Defendant - Appellant.</p> |
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No. 09-10373

D.C. No. 1:08-cr-00064-FMTG

MEMORANDUM*

Appeal from the United States District Court
for the District of Guam
Frances Tydingco-Gatewood, Chief Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Richard Ferreras David appeals from the 108-month sentence imposed following his guilty-plea conviction for importation of methamphetamine hydrochloride (ice), in violation of 21 U.S.C. §§ 952(a) and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

David contends the district court procedurally erred by failing to adequately consider his argument that the two-level enhancement for importation of methamphetamine under U.S.S.G. § 2D1.1(b)(4) created an unwarranted sentencing disparity among similarly situated defendants. The record reflects that the district court listened to the parties' arguments and did not otherwise procedurally err. *See United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008) (en banc).

David further contends his sentence is substantively unreasonable because the importation enhancement is arbitrary, does not properly reflect the 18 U.S.C. § 3553(a) factors, and unfairly overstates his offense conduct. In light of the totality of the circumstances and the § 3553(a) sentencing factors, the sentence is substantively reasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *Carty*, 520 F.3d at 993.

AFFIRMED.