

OCT 27 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>CHARLES BERNARD PARKE,</p> <p>Defendant - Appellant.</p>

No. 09-30375

D.C. No. 2:08-cr-00024-CCL

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Charles Bernard Parke appeals from his 262-month sentence imposed following his guilty-plea conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1). We have jurisdiction pursuant to 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).

Parke contends that his sentence is unreasonable because the district court failed to consider his extraordinary medical problems. The record reflects that the district court thoroughly considered Parke's arguments for a downward departure based on his health issues, but found the circumstances insufficient to warrant a sentence below the bottom of the advisory Guidelines range. The district court did not procedurally err, and the sentence is substantively reasonable under the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008) (en banc).

Parke's request for new counsel is denied.

AFFIRMED.