

DEC 27 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NOT FOR PUBLICATION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.

JAMES R. DAMASO,

Defendant - Appellant.

No. 09-10493

D.C. No. 1:09-cr-00033-FMTG-1

MEMORANDUM*

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

Submitted December 14, 2010**

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

James R. Damaso, a federal prisoner, appeals his 57-month prison sentence for Possession of Methamphetamine Hydrochloride in violation of 21 U.S.C. § 841 and a consecutive 24 months for violation of supervised release imposed for a prior

* 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).

conviction. Damaso argues that the district court failed to state its reasons for imposing the maximum sentence advised by the United States Sentencing Guidelines (“Guidelines”). *See* 18 U.S.C. § 3553(a) & (c). He also argues that his sentence is substantively unreasonable. We have jurisdiction under 18 U.S.C. § 1291. We review de novo whether the district court stated adequately its reasons for imposing the sentence, *United State v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009), and review the sentence for reasonableness under an abuse of discretion standard. *Gall v. United States*, 552 U.S. 38, 51, 128 S. Ct. 586, 597, 169 L. Ed. 2d 445 (2007); *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc). We affirm.

Damaso complains that the district court did not sufficiently provide reasons for selecting the maximum sentence advised by the Guidelines. We disagree. The district court complied with its obligations under the Guidelines. *See* 18 U.S.C. § 3553(a) & (c); *Carty*, 520 F.3d at 992 (“The district court need not tick off each of the § 3553(a) factors to show that it has considered them.”); *United State v. Diaz-Argueta*, 564 F.3d 1047, 1051-52 (9th Cir. 2009) (“§ 3553(a) ‘does not necessitate a specific articulation of each factor separately, but rather a showing that the district court considered the statutorily-designated factors in imposing a

sentence.”); *see also United States v. Delgado*, 357 F.3d 1061, 1071 (9th Cir. 2004).

With respect to substantive reasonableness, in light of all the circumstances surrounding the offense and Damaso’s criminal history, we hold that the district court did not abuse its discretion. *See Carty*, 520 F.3d at 993.

Damaso’s remaining contentions are unpersuasive.

AFFIRMED.