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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NOT FOR PUBLICATION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>ISAIH VEYTIA,</p> <p>Defendant - Appellant.</p>
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No. 10-50027

D.C. No. 3:09-cr-03145-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted December 14, 2010**

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

Isaih Veytia appeals from the 96-month sentence imposed following his guilty-plea conviction for importation of cocaine, in violation of 21 U.S.C. §§ 952, 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).

Veytia contends that, when imposing a sentence below the statutory mandatory minimum, the district court erred by determining that the government's substantial assistance motion under 18 U.S.C. § 3553(e) permitted it to consider only the factors set forth in section 3553(e) and not the factors set forth in 18 U.S.C. § 3553(a). Veytia contends that this determination conflicts with *Kimbrough v. United States*, 552 U.S. 85 (2007), and leads to a sentence that violates the parsimony principle. These contentions are foreclosed. *See United States v. Jackson*, 577 F.3d 1032, 1035-36 (9th Cir. 2009).

AFFIRMED.