

APR 11 2011

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NOT FOR PUBLICATION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.

FELICISIMO G. CASTILLO,

Defendant - Appellant.

No. 10-10167

D.C. No. 1:09-cr-00014-FMTG-4

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Felicisimo G. Castillo appeals from the 46-month sentence imposed following his guilty-plea conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. 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).

Castillo contends that the district court erred in denying his request for a mitigating role adjustment under U.S.S.G. § 3B1.2. Contrary to Castillo's assertion, the district court considered Castillo's culpability relative to that of others involved in the conspiracy, and the denial of the mitigating role adjustment was not clearly erroneous under the specific facts of this case. *See United States v. Cantrell*, 433 F.3d 1269, 1282-84 (9th Cir. 2006).

Castillo further contends that his sentence is substantively unreasonable. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) factors, the sentence is not substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.