

OCT 13 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NOT FOR PUBLICATION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.

ISMAEL ANAYA,

Defendant - Appellant.

No. 10-30286

D.C. No. 1:09-cr-30045-PA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Owen M. Panner, District Judge, Presiding

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

Ismael Anaya appeals from the 260-month sentence imposed following his guilty-plea conviction for conspiracy to distribute heroin, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(i), 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).

Anaya contends that the district court procedurally erred by failing to consider his mitigation arguments, and by failing to explain why it selected his sentence. The record shows that the court heard and considered all of Anaya's arguments and properly explained its rationale for selecting the sentence. *See United States v. Amezcua-Vasquez*, 567 F.3d 1050, 1053-54 (9th Cir. 2009).

Anaya also contends that the sentence is substantively unreasonable. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, particularly the need for the sentence imposed to reflect the seriousness of the offense, the within-Guidelines sentence is not substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.