

JAN 27 2012

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NOT FOR PUBLICATION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.

TRUC TRAN, a.k.a. Daniel, a.k.a. Truc
Trung Tran,

Defendant - Appellant.

No. 10-50339

D.C. No. 2:09-cr-00360-PA

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Truc Tran appeals from the 46-month sentence imposed following his jury-trial conviction for conspiracy to distribute methylenedioxy-methamphetamine (MDMA), in violation of 21 U.S.C. §§ 846, 841(a)(1), and possession with intent

* 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. Appellant. P. 34(a)(2).

to distribute MDMA, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Tran contends that the district court procedurally erred by failing to consider whether a minor participant downward departure was warranted pursuant to U.S.S.G. § 3B1.2(b). This contention is without merit, as Tran failed to request a minor participant departure to the district court. *See United States v. Quesada*, 972 F.2d 281, 284 (9th Cir. 1992).

AFFIRMED.