

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 21 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAS JAH MIKES MATTA, a.k.a. Ras
Yah Mikes Matta,

Defendant - Appellant.

No. 10-30363

D.C. No. 1:10-cr-00010-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Ras Jah Mikes Matta appeals from the 96-month sentence imposed following his guilty-plea conviction to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). 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.

Matta contends that the district court erred in denying him an adjustment for acceptance of responsibility under U.S.S.G. § 3E1.1 on the basis of his conduct in jail between the time of his plea and his sentencing. The district court was permitted to consider such conduct and did not clearly err in determining that Matta was not entitled to an adjustment. *See United States v. Mara*, 523 F.3d 1036, 1038-39 (9th Cir. 2008) (upholding denial of an adjustment under section 3E1.1 on the basis of a jailhouse fight pending sentencing and observing that “post-offense conduct can shed significant light on the genuineness of a defendant’s claimed remorse”) (internal quotations omitted). The 96-month sentence at the upper end of the advisory Sentencing Guidelines range was substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.