

MAR 05 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NOT FOR PUBLICATION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.

SIMON LOPEZ, Jr.,

Defendant - Appellant.

No. 11-50136

D.C. No. 2:09-cr-01308-MMM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted February 21, 2012**

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

Simon Lopez, Jr., appeals from the 205-month sentence imposed following his guilty-plea conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(viii), and

* 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).

possession of a firearm in furtherance of a drug trafficking offense, in violation of 18 U.S.C. § 924(c)(1)(A). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Lopez contends that the district court procedurally erred by failing sufficiently to discuss or apply the 18 U.S.C. § 3553(a) sentencing factors, and by treating the Guidelines range as the presumptive sentencing range. The district court provided a well-reasoned and thorough analysis of the 18 U.S.C. § 3553(a) sentencing factors, before determining that a sentence below the applicable Guidelines range was appropriate. The district court did not procedurally err, and the sentence is substantively reasonable under the totality of the circumstances and in light of the § 3553(a) factors. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

Lopez also contends that the district court erred by not granting a third-point reduction for acceptance of responsibility. This contention lacks merit. *See* U.S.S.G. § 3E1.1(b); *United States v. Johnson*, 581 F.3d 994, 1003-04 (9th Cir. 2009).

Lopez's pro se motion to supplement the record is denied.

AFFIRMED.