

MAY 18 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>SANDEEP SINGH,</p> <p>Defendant - Appellant.</p>

No. 11-10288

D.C. No. 1:09-cr-00369-AWI

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, Chief Judge, Presiding

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Sandeep Singh appeals from the 168-month sentence imposed following his guilty-plea conviction for conspiracy to distribute MDMA, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841 (b)(1)(c). We have jurisdiction under

* 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).

28 U.S.C. § 1291, and we affirm.

Singh contends that the district court erred in calculating the advisory Guidelines range by relying on the testimony of a co-defendant to determine Singh's relevant conduct and to establish his base offense level. The district court did not clearly err, because its factual finding regarding the number of ecstasy pills for which Singh was responsible is supported by a preponderance of the evidence. *See United States v. Asagba*, 77 F.3d 324, 325-26 (9th Cir. 1996). The district court adequately explained its decision, and the sentence imposed is procedurally sound. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

AFFIRMED.