

MAR 18 2015

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NOT FOR PUBLICATION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.

TODD ALLEN SCHMIDT,

Defendant - Appellant.

No. 14-30084

D.C. No. 6:13-cr-00014-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted March 10, 2015**

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Todd Allen Schmidt appeals from this district court's judgment and challenges the 96-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). 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).

Schmidt contends that his sentence is substantively unreasonable given his relatively minor role and the fact that he had “several years” of law-abiding conduct prior to the offense. The district court did not abuse its discretion in imposing Schmidt’s within-Guidelines sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) factors and the totality of the circumstances, including Schmidt’s criminal history and the fact that he was under supervision for a prior felony drug conviction at the time he committed the instant offense. *See Gall*, 552 U.S. at 51.

AFFIRMED.