

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 24 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC JONES,

Defendant - Appellant.

No. 14-10476

D.C. No. 4:12-cr-00674-JSW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Eric Jones appeals from the district court's judgment and challenges the 130-month sentence imposed upon remand for resentencing following his guilty-plea conviction for narcotics and weapons offenses, in violation of 21 U.S.C.

§ 841(a)(1), (b)(1)(B)(viii) and (b)(1)(C), and 18 U.S.C. § 922(a)(1) and (d). We

* 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).

have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Jones contends that the district court procedurally erred by failing to address his mitigating arguments and explain the sentence adequately. The record reflects that the district court considered Jones's mitigating arguments, which he asserted in his sentencing memorandum and again at the sentencing hearing, and simply found them insufficient to warrant a sentence lower than the one it originally imposed. *See Rita v. United States*, 551 U.S. 338, 358 (2007). The court's reasons for the sentence are evident from the record. *See id.* at 359. We are unpersuaded by Jones's suggestion that the court's failure to comment specifically on the 18 U.S.C. § 3553(a) factors shows that it did not consider them. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

Jones next contends that the sentence is substantively unreasonable in light of his mitigating circumstances. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The above-Guidelines sentence is substantively reasonable in light of the section 3553(a) sentencing factors and the totality of the circumstances, including the nature of the offense. *See Gall*, 552 U.S. at 51.

AFFIRMED.