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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. WILLIAM HARVEY STROUD, a.k.a. William Stroud, Defendant - Appellant.	No. 15-50182 D.C. No. 3:14-cr-02161-BEN MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted April 26, 2016**

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

William Harvey Stroud appeals from the district court's judgment and challenges the 48-month sentence imposed following his guilty-plea conviction for

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* 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).

importation of methamphetamine, in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Stroud contends that the district court erred by refusing to consider a relevant sentencing factor, namely his mental infirmities, when it denied the parties' requests for a departure or variance. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. Contrary to Stroud's contention, the record shows that the district court considered his mental infirmities, granted a minor-role reduction to account for his limitations, and then simply concluded that the circumstances did not warrant a departure under U.S.S.G. § 5K2.13 or a variance. *See Rita v. United States*, 551 U.S. 338, 358 (2007). Moreover, the sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including the nature of the offense and Stroud's intellectual limitations. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Blixt*, 548 F.3d 882, 890-91 (9th Cir. 2008).

AFFIRMED.