

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 17 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SAMUEL NAVARRETTE-AGUILAR,
a.k.a. Guayabo,

Defendant-Appellant.

No. 16-30104

D.C. No. 3:12-cr-00373-HZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Marco A. Hernandez, District Judge, Presiding

Submitted July 11, 2017**

Before: CANBY, KOZINSKI, and HAWKINS, Circuit Judges.

Samuel Navarrette-Aguilar appeals from the district court's judgment and challenges the 168-month concurrent sentences imposed upon remand for resentencing following his convictions for heroin trafficking conspiracy, distribution of heroin, and possession with intent to distribute heroin, in violation

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Navarrette-Aguilar contends that his sentence is substantively unreasonable. The court did not abuse its discretion in imposing Navarrette-Aguilar's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Navarrette-Aguilar's criminal history and the nature of the offense. *See Gall*, 552 U.S. at 51; see also *United States v. Carter*, 560 F.3d 1107, 1121 (9th Cir. 2009) (sentencing disparities are not unwarranted where defendant and his co-conspirators are not similarly situated).

AFFIRMED.