NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. IGNACIO HERRERA, Defendant - Appellant.	No. 11-50131 D.C. No. 2:10-cr-00265-PSG MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted June 26, 2012[**]

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Ignacio Herrera appeals from the 120-month sentence imposed following his

guilty-plea conviction for conspiracy to distribute cocaine, and to possess with

intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and

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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).

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

Herrera contends that the district court procedurally erred by denying him a

four-level departure under U.S.S.G. § 5H1.2 on the basis of his medical condition.

Herrera never requested this particular departure in the district court. In any event,

our review of a decision not to depart considers only whether the resulting sentence

was substantively reasonable. *See United States v. Ellis*, 641 F.3d 411, 421-22 (9th

Cir. 2011). Herrera's sentence 15 months below the bottom of the advisory

Sentencing Guidelines range is substantively reasonable in light of the totality of

the circumstances and the factors set forth in 18 U.S.C. § 3553(a), including the

seriousness of the offense and the need to avoid unwarranted sentencing

disparities. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

To the extent that Herrera argues that the district court failed to consider

particular factors relevant to his medical condition in selecting a sentence, the

record belies this contention.

AFFIRMED.