

AUG 02 2016

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NOT FOR PUBLICATION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.

ROSHAUN NAKIA PORTER,

Defendant - Appellant.

No. 15-50084

D.C. No. 8:12-cr-00097-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Roshaun Nakia Porter appeals from the district court's judgment and challenges the 240-month sentence imposed following his guilty-plea conviction for conspiracy to engage in sex trafficking, in violation of 18 U.S.C. § 1594(c).

We have jurisdiction pursuant to 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).

Porter contends that his sentence is substantively unreasonable because the district court failed to grant a downward departure under U.S.S.G. § 4A1.3(b), which authorizes the district court to depart when the defendant's criminal history category overstates the seriousness of his criminal history. Our review of a district court's decision whether to depart under section 4A1.3 is limited to determining whether the court imposed a substantively unreasonable sentence. *See United States v. Ellis*, 641 F.3d 411, 421-22 (9th Cir. 2011). The district court did not abuse its discretion in imposing Porter'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 Porter's criminal history and the violent nature of the offense. *See Gall*, 552 U.S. at 51.

AFFIRMED.