

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 18 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-30068

Plaintiff-Appellee,

D.C. No. 2:16-cr-00284-JLR

v.

DONALD McCOY, Jr.,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted January 15, 2019**

Before: TROTT, TALLMAN, and CALLAHAN, Circuit Judges.

Donald McCoy, Jr., appeals from the district court's judgment and challenges the 24-year sentence imposed following his guilty-plea conviction for production, distribution, and possession of child pornography, in violation of 18 U.S.C. §§ 2251(a) and 2252. We have jurisdiction under 28 U.S.C. § 1291, and we

* 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).

affirm.

McCoy first contends that the district court procedurally erred by failing to consider each of the 18 U.S.C. § 3553(a) sentencing factors and address his mitigating arguments. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and conclude that there is none. The record reflects that the district court explicitly acknowledged and considered each of the sentencing factors, as well as McCoy's mitigating arguments, but was not persuaded that they warranted a lower sentence.

McCoy also argues that his sentence is substantively unreasonable. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 24-year sentence is substantively reasonable in light of the section 3553(a) sentencing factors and the totality of the circumstances, including the seriousness of the offense, the impact on the victims, the need to provide deterrence to others, and the need to protect the public. *See id.*

AFFIRMED.