

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 30 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-30272

Plaintiff-Appellee,

D.C. No. 1:16-cr-00225-EJL-1

v.

JOSE DE JESUS GARAY-GONZALEZ,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

Jose de Jesus Garay-Gonzalez appeals from the district court's judgment and challenges the 210-month sentence imposed following his guilty-plea conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C.

§§ 841(a)(1), 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Garay-Gonzalez contends that his sentence is substantively unreasonable because it is longer than necessary, particularly in light of his inability to participate in any rehabilitative programming in prison as a result of his immigration status. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 210-month sentence, which is at the low-end of the undisputed Guidelines range and was recommended by both parties, is substantively reasonable in light of the 18 U.S.C. § 3553(a) factors and the totality of the circumstances, including Garay-Gonzalez's criminal history and the nature and circumstances of the offense. *See Gall*, 552 U.S. at 51. Contrary to Garay-Gonzalez's assertion, the record reflects that the district court heard and understood his mitigating arguments; it was not persuaded that they justified a shorter sentence. *See Rita v. United States*, 551 U.S. 338, 358-59 (2007).

AFFIRMED.