

NOT FOR PUBLICATION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. 19-30281

Plaintiff-Appellee,

D.C. No. 4:18-cr-00235-DCN-1

v.

MEMORANDUM*

ANDREW DIXEY GALLOWAY,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Idaho
David C. Nye, District Judge, Presiding

Submitted October 26, 2020**

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

Andrew Dixey Galloway appeals from the district court's judgment and challenges the 179-month sentence imposed following his guilty-plea conviction for assault with intent to commit murder committed within Indian country, in violation of 18 U.S.C. § 113(a)(1), and use of a firearm in furtherance of a violent

* 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).

crime, in violation of 18 U.S.C. § 924(c)(1)(A). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Galloway contends that the sentence is substantively unreasonable in light of his personal history and characteristics and the circumstances leading up to the offense, and because a shorter sentence would be sufficient. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The below-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including the seriousness of the offense. *See Gall*, 552 U.S. at 51; *see also United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) (“The weight to be given the various factors in a particular case is for the discretion of the district court.”). Moreover, contrary to Galloway’s contention, the record reflects that the district court heard Galloway’s arguments regarding the mitigating circumstances of the offense but concluded that those circumstances did not warrant a shorter sentence. *See United States v. Perez-Perez*, 512 F.3d 514, 516 (9th Cir. 2008).

AFFIRMED.