

JAN 24 2008

CATHY A. CATTERSON, 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NOT FOR PUBLICATION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.

ANTONIO PENA-VELASQUEZ,

Defendant - Appellant.

No. 07-30055

D.C. No. CR-06-00059-BLW

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O’SCANNLAIN, and PAEZ, Circuit Judges.

Antonio Pena-Velasquez appeals from the 365-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute methamphetamine, possession with intent to distribute methamphetamine, and being found in the United States following a previous deportation, all in violation of 8 U.S.C. § 1326; 18 U.S.C. § 2; 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(B); and 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Pena-Velasquez contends that his sentence is unreasonable because it will keep him incarcerated until he is 72 years old, and is therefore greater than necessary to accomplish the goals stated in 18 U.S.C. § 3553(a). We disagree. The district court carefully considered Pena-Velasquez's history and circumstances, addressed the statutory factors specified in 18 U.S.C. § 3553(a), and properly calculated the applicable range under the advisory Sentencing Guidelines, before imposing a sentence at the top of the Guidelines range. We conclude that the sentence is not unreasonable. *See Gall v. United States*, 128 S. Ct. 586, 602 (2007).

AFFIRMED.