

FEB 01 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NOT FOR PUBLICATION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.

ROBERT OCAMPO, a/k/a Wicked, a/k/a  
Seal S,

Defendant - Appellant.

No. 06-50203

D.C. No. CR-05-00124-DOC-19

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
David O. Carter, District Judge, Presiding

Submitted January 14, 2008\*\*

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

Robert Ocampo appeals from the 292-month sentence imposed following a jury-trial conviction for conspiracy to possess with intent to distribute

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\* 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).

methamphetamine, in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Ocampo contends that the district court erred in applying a two-level enhancement, pursuant to U.S.S.G. § 2D1.1(b)(1), for possession of a firearm. We disagree. The district court properly determined that Ocampo possessed a firearm during the commission of the conspiracy, *see United States v. Lopez-Sandoval*, 146 F.3d 712, 715 (9th Cir. 1998), and it was not “clearly improbable that the weapon was connected with the offense.” U.S.S.G. § 2D1.1, cmt. n.3. Accordingly, the district court properly applied a two-level enhancement for possession of a firearm. *See United States v. Restrepo*, 884 F.2d 1294, 1296 (9th Cir. 1989).

Ocampo further contends that his sentence is unreasonable because the district court failed to adequately weigh or discuss the 18 U.S.C. § 3553(a) factors generally, and specifically failed to consider the need to avoid unwarranted sentence disparities, as required by § 3553(a)(6). Upon review of the record, we are satisfied that the district court followed the appropriate procedures: it properly calculated the Guidelines range, gave consideration to each of the relevant § 3553(a) factors, considered the parties’ arguments, and provided sufficient reasons for the sentence. *See Rita v. United States*, 127 S. Ct. 2456, 2468-69 (2007). Ocampo’s sentencing disparity argument fails because Ocampo is

dissimilar to his co-defendants in a number of material respects and his relatively long sentence is therefore not unreasonable. *See United States v. Corona-Verbera*, No. 06-10538, 2007 WL 4276720 at \*11 (9th Cir. Dec. 7, 2007).<sup>1</sup>

Ocampo's motion for leave to file a supplemental transcript designation, filed on March 20, 2007, is denied.

**AFFIRMED.**

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<sup>1</sup> By letter dated December 11, 2007, Ocampo asks this Court, pursuant to Fed. R. App. P. 28(j), to consider the recent Supreme Court decisions in *Gall v. United States*, 128 S. Ct. 586 (2007) and *Kimbrough v. United States*, 128 S. Ct. 558 (2007). Neither *Gall* nor *Kimbrough* alters the result in this case.