

JAN 24 2017

MOLLY C. DWYER, 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NOT FOR PUBLICATION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 SANCHEZ,

Defendant-Appellant.

No. 15-50550

D.C. No. 2:14-cr-00330-JAK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Submitted January 18, 2017 **

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

Antonio Sanchez appeals from the district court's judgment and challenges the 180-month sentence imposed following his guilty-plea conviction for conspiracy to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846; distribution and possession with intent to distribute

* 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).

methamphetamine, aiding and abetting, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii), and 18 U.S.C. § 2(a); and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Sanchez contends that the district court erred by failing to consider evidence of derivative entrapment and its resulting sentencing entrapment as a mitigating factor to forego imposition of the five-year sentence for his section 924(c) conviction. We disagree. Sanchez's guilty plea waived any entrapment defense to his conviction. *See United States v. Lopez-Armenta*, 400 F.3d 1173, 1175 (9th Cir. 2005). Further, having suffered that conviction, Sanchez was subject to its mandatory five-year consecutive sentence, and the district court had no authority to depart below it. *See* 18 U.S.C. § 924(c)(1)(A)(i); *United States v. Wipf*, 620 F.3d 1168, 1170-71 (9th Cir. 2010) (substantial assistance and safety valve are the only grounds for imposing a sentence below a mandatory minimum).

AFFIRMED.