

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 4 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARKEL DEAN BROWN,

Defendant - Appellant.

No. 23-949

D.C. No. 1:22-cr-00103-SPW-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted March 26, 2024**

Before: TASHIMA, SILVERMAN, and KOH, Circuit Judges.

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

* 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).

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

Brown contends that his sentence is substantively unreasonable because it does not sufficiently account for his mitigating factors, including his age, mental health issues, and difficult background. The record reflects that the district court acknowledged Brown's mitigating factors and imposed the below-Guidelines sentence to account for them. The court did not abuse its discretion by declining to impose an even lower sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *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."). The sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) factors and the totality of the circumstances, including Brown's criminal history and the seriousness of his offense. *See Gall*, 552 U.S. at 51.

AFFIRMED.