

JAN 21 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

REGINALD STEWART, a.k.a. Ren,

Defendant - Appellant.

No. 09-50389

D.C. No. 2:07-cr-01215-SJO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Reginald Stewart appeals from the 160-month sentence imposed following his guilty-plea conviction to possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B), and possession of a firearm in

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

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

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 dismiss.

Stewart contends his sentence is substantively unreasonable because the district court failed to consider the disparity in the sentencing guidelines between cocaine base and powder cocaine. The valid and enforceable appeal waiver set forth in Stewart's plea agreement precludes our review of this issue. *See United States v. Bibler*, 495 F.3d 621, 623-24 (9th Cir. 2007). We therefore enforce the waiver and dismiss the appeal.

DISMISSED.