

FEB 23 2011

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NOT FOR PUBLICATION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.

FRANCISCO OROPEZA,

Defendant - Appellant.

No. 10-30178

D.C. No. 1:09-cr-00102-BLW

MEMORANDUM*

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

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Francisco Oropeza appeals from the sentence of 84 months and one day imposed following his guilty-plea conviction for drug trafficking conspiracy and distribution offenses, in violation of 21 U.S.C. §§ 841 and 846; and his jury-trial conviction for brandishing a firearm in furtherance of a drug trafficking crime, 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).

violation of 18 U.S.C. § 924(c)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Oropeza contends that the district court erred in concluding that it could not impose a sentence below the statutory minimum because, through the enactment of 18 U.S.C. § 3553(a), Congress repealed by implication the mandatory minimum sentencing provisions of § 924(c)(1). Oropeza's contention is foreclosed by *United States v. Wipf*, 620 F.3d 1168 (9th Cir. 2010).

AFFIRMED.