

FEB 23 2012

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NOT FOR PUBLICATION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.

EILEEN MARIE GELLER,

Defendant - Appellant.

No. 10-50210

D.C. No. 2:08-cr-00358-GHK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. King, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Eileen Marie Geller appeals from the 36-month sentence imposed following her guilty-plea conviction for five counts of health care fraud, in violation of 18 U.S.C. § 1347. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Geller contends that the district court procedurally erred when it failed to consider or explain adequately why it rejected Geller's arguments for a lenient sentence and the probation officer's recommendation. The record belies her contention. The district court considered Geller's mitigating arguments and adequately explained that in light of the severity of the offense and the need to promote respect for the law, a sentence one month below the advisory Guidelines range was warranted. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

AFFIRMED.