

DEC 06 2013

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NOT FOR PUBLICATION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.

LIONEL ALVAREZ, a.k.a. Frog, a.k.a.
Frogdog,

Defendant - Appellant.

No. 12-50173

D.C. No. 2:10-cr-00362-ODW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright, II, District Judge, Presiding

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Lionel Alvarez appeals from the district court’s judgment and challenges the 189-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute and to distribute cocaine, in violation of 21 U.S.C.

* 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).

§ 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Alvarez contends that his sentence is substantively unreasonable in light of his circumstances, including his learning disability and nonviolent history, and because the sentence is greater than necessary to achieve the goals of sentencing. The district court did not abuse its discretion in imposing Alvarez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Alvarez's prior drug trafficking conviction and the seriousness of the offense. *See id.*

AFFIRMED.