

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 19 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-10289

Plaintiff-Appellee,

D.C. No. 2:20-cr-00113-CDS-EJY-1

v.

MEMORANDUM\*

MARIO DEMARLO ALSTON,

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Nevada  
Cristina D. Silva, District Judge, Presiding

Submitted September 12, 2023\*\*

Before: CANBY, CALLAHAN, and OWENS, Circuit Judges.

Mario Demarlo Alston appeals from the district court's judgment and challenges the 87-month sentence imposed following his guilty-plea conviction for coercion and enticement, in violation of 18 U.S.C. § 2422(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Alston contends that his stipulated sentence is substantively unreasonable because the parties anticipated a lower Guidelines range and because the court gave undue weight to his criminal history and marijuana use. We are unpersuaded by the government's argument that Alston waived this claim, but we conclude that the district court did not abuse its discretion in imposing Alston's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The above-Guidelines, 87-month sentence is substantively reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) factors, including the nature of the offense and Alston's criminal history. *See Gall*, 552 U.S. at 51; *see also 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.").

We decline to consider Alston's challenge to the computer use enhancement because it is unsupported by any argument. *See United States v. Williamson*, 439 F.3d 1125, 1137-38 (9th Cir. 2006) (issues raised in brief but not supported by argument are abandoned).

**AFFIRMED.**