

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 4 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JIHAD JAD TAWASHA,

Defendant - Appellant.

No. 23-492

D.C. No.

4:22-cr-00076-YGR-4

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Yvonne Gonzalez Rogers, District Judge, Presiding

Submitted March 26, 2024**

Before: TASHIMA, SILVERMAN, and KOH, Circuit Judges.

Jihad Jad Tawasha appeals from the district court's judgment and challenges the 36-month sentence imposed following his guilty-plea conviction for possession with intent to distribute fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C).

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 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).

Tawasha contends that his sentence is substantively unreasonable because it creates unwarranted sentencing disparities with his co-defendants and does not adequately account for his drug addiction. The district court did not abuse its discretion in imposing the below-Guidelines sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). As the court explained, Tawasha was not similarly situated to his co-defendants. *See United States v. Osinger*, 753 F.3d 939, 949 (9th Cir. 2014) (appellant’s “sentencing disparity argument is undermined by his more extensive criminal history”). In addition, the court accounted for Tawasha’s mitigating circumstances by imposing a sentence 27 months below the low end of the Guidelines range. It did not abuse its discretion in failing to vary downward even further. *See 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.”).

AFFIRMED.