

September 11, 2012

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT SANCHEZ,

Defendant - Appellant.

No. 12-2038

(D. New Mexico)

(D.C. No. 1:10-CR-03449-JB-1)

ORDER AND JUDGMENT*

Before **MURPHY, ANDERSON, and HARTZ**, Circuit Judges.

Defendant Robert Sanchez pleaded guilty to one count of possession with intent to distribute 100 grams or more of heroin, one count of being a felon in possession of a firearm, and one count of possessing a firearm in furtherance of a drug trafficking crime. The minimum sentence for the felon-in-possession count was 180 months' imprisonment, and the mandatory sentence for the other firearm count was 60 months, to run consecutively to the sentences on the other counts.

*After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

The undisputed sentencing guideline range was 322 to 387 months' imprisonment. The district court varied downward to impose a sentence of 292 months.

The only challenge on appeal is that the sentence was substantively unreasonable. Because the sentence was below the guidelines range, we presume that the sentence was not unreasonably long. *See United States v. Balbin-Mesa*, 643 F.3d 783, 788 (10th Cir. 2011). Defendant has not persuaded us that the presumption has been overcome. Therefore, we AFFIRM the sentence.

ENTERED FOR THE COURT

Harris L Hartz
Circuit Judge