

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

JAN 20 2009

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ILLYA BOND, aka Frank Akbery,

Defendant - Appellant.

No. 06-50628

D.C. No. CR-05-00660-PA

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Percy Anderson, District Judge, Presiding

Argued and Submitted June 5, 2008  
Pasadena, California

Before: THOMPSON, O'SCANNLAIN, and TALLMAN, Circuit Judges.

I

Bond argues that his 16-level sentencing enhancement under U.S.S.G. § 2B1.1 for amount of loss between \$1.0 and \$2.5 million violates *United States v. Booker*, 543 U.S. 220 (2005), because the district court, rather than the jury, made

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

the factual finding regarding the amount of loss.<sup>1</sup> However, contrary to his assertion, “district courts are free to make factual determinations not made by the jury and may base their ultimate decisions regarding the length of a convicted criminal’s sentence on those determinations.” *United States v. Staten*, 466 F.3d 708, 719 (9th Cir. 2006). The record provides sufficient evidence to support the trial judge’s findings.

## II

Bond also argues that the district court erred in requiring him to pay restitution due to his financial condition. Under the Mandatory Victims Restitution Act (“MVRA”), imposition of restitution is mandatory, “without regard to a defendant’s economic situation.” *United States v. Dubose*, 146 F.3d 1141, 1143 (9th Cir. 1998); *see also* 18 U.S.C. § 3664(f)(1)(A). The case relied on by Bond stating the contrary, *United States v. Ramilo*, 986 F.2d 333 (9th Cir. 1993), was decided prior to the MVRA’s passage.

AFFIRMED.

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<sup>1</sup> In a concurrently filed opinion, we consider whether the government withheld information from the defendant which it was required to disclose under *Brady v. Maryland*, 373 U.S. 83 (1963). *United States v. Bond*, 06-50628 (9th Cir. \_\_\_, 2008). The facts of the case are stated there; we need not repeat them here.