

MAR 05 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>JOHN F. BIG LEGGINS, Jr.,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 08-30003

D.C. No. CR-07-00072-SEH  
District of Montana,  
Great Falls

ORDER  
AMENDING MEMORANDUM  
DISPOSITION  
AND DENYING THE PETITION  
FOR PANEL REHEARING AND  
PETITION FOR REHEARING  
EN BANC

Before: PREGERSON, CANBY and HALL, Circuit Judges.

The memorandum disposition filed in this case on August 15, 2008, 289 F. App'x 214 (9th Cir. 2008), is hereby amended as follows:

1. In the beginning of Section II, delete the paragraph beginning with <Because Big Leggins did not object > and ending with <If a district court's sentence is procedurally sound, then we review the substantive reasonableness of the sentence for abuse of discretion. *Gall v. United States*, 128 S.Ct. 586, 597 (2007).>

2. Replace the deleted paragraph with:

<This court reviews the sentence under an abuse of discretion standard, looking first to whether the district court committed any procedural error and then to the substantive reasonableness of the sentence in light of the totality of the circumstances. *Gall v. United States*, 128 S. Ct. 586, 597 (2007).>

With these amendments, the panel has voted to deny the petition for panel rehearing and the petition for rehearing en banc.

The petition for panel rehearing and the petition for rehearing en banc are DENIED. No further petitions shall be entertained.