

MAY 26 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NOT FOR PUBLICATION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>GENE EDWARD LUCAS,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 08-30278

D.C. No. 4:08-CR-00005-SEH-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Gene Edward Lucas appeals from the 33-month sentence imposed following his jury-trial conviction for being a felon in possession of a firearm, in violation of

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

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

18 U.S.C. §§ 922(g)(1) and 924(e). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Lucas contends that his sentence is unreasonable because the district court failed to adequately consider the sentencing factors pursuant to 18 U.S.C. § 3553(a) and placed too much weight on his criminal history. We conclude that the district court did not commit procedural error, and that the sentence is not substantively unreasonable. *See United States v. Stoterau*, 524 F.3d 988, 999-1002 (9th Cir. 2008).

AFFIRMED.