

JUL 06 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK WARNER PEACOCK,

Defendant - Appellant.

No. 06-10094

D.C. No. CR-01-01525-JMR

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
John M. Roll, Chief District Judge, Presiding

Submitted June 16, 2009\*\*

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Mark Warner Peacock appeals from the 84-month sentenced imposed following his jury-trial conviction for unlawful possession of a firearm by a person convicted of a crime punishable by imprisonment for a term exceeding one year, in

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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 panel unanimously denies appellant's request for oral argument. See Fed. R. App. P. 34(a)(2).

violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Peacock contends that the district court erred by not making the requisite findings of fact in applying a sentencing enhancement for obstruction of justice under U.S.S.G. § 3C1.1. We conclude that the record supports the enhancement. *See United States v. Barajas*, 360 F.3d 1037, 1043-44 (9th Cir. 2004).

Peacock contends that the district court failed to provide an appropriate explanation of its decision not to resentence, pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). This contention is belied by the record. *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006). He also contends that the sentence is unreasonable. We conclude that the district court properly understood its authority to impose a non-Guideline sentence. *See id.*

**AFFIRMED.**