

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NOT FOR PUBLICATION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.

THOMAS WESLEY BOREN,

Defendant - Appellant.

No. 08-30242

D.C. No. 6:07-CR-60015-MRH

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Michael R. Hogan, District Judge, Presiding

Submitted June 16, 2009\*\*

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

Thomas Wesley Boren appeals from the 120-month sentence imposed following his guilty-plea conviction for possession of child pornography, 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 finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 18 U.S.C. § 2252A(a)(5)(B), (b)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Boren contends that the district court procedurally erred at sentencing by failing to adequately explain the sentence, and by placing excessive weight on the advisory U.S. Sentencing Guidelines range. We review for plain error. *See United States v. Knows His Gun*, 438 F.3d 913, 918 (9th Cir. 2006). The record reflects that the district court considered Boren's arguments and applied the § 3553(a) factors. *See United States v. Perez-Perez*, 512 F.3d 514, 516 (9th Cir. 2008). Further, there is no indication in the record that the district court gave undue weight to the Guidelines. We thus conclude that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

Boren also contends that the sentence is substantively unreasonable. In light of the totality of the circumstances, we conclude that the sentence is not substantively unreasonable. *See United States v. Autery*, 555 F.3d 864, 877 (9th Cir. 2009); *see also Carty*, 520 F.3d at 993.

**AFFIRMED.**