

JUL 06 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MIGUEL A. GOMEZ-RODRIGUEZ,

Defendant - Appellant.

No. 08-30349

D.C. No. 2:07-CR-06030-LRS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Lonny R. Suko, District Judge, Presiding

Submitted June 16, 2009\*\*

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

Miguel A. Gomez-Rodriguez appeals from the 29-month sentence imposed following his guilty-plea conviction for possession of an unlawful firearm, in

---

\* 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 26 U.S.C. §§ 5861(d) and 5871. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Gomez-Rodriguez contends that the district court erred at sentencing by determining that he was a person prohibited from possessing a firearm and therefore calculating his base offense level under U.S.S.G. § 2K2.1(a)(4)(B). As Gomez-Rodriguez concedes, plain error review applies. We conclude that Gomez-Rodriguez has not established that any error affected his substantial rights or seriously affected the fairness, integrity, or public reputation of the proceedings. *See United States v. Olano*, 507 U.S. 725, 734-37 (1993).

**AFFIRMED.**