

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 14 2009

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHADWICK EDWARD ASHEIM,

Defendant - Appellant.

Nos. 08-30163 & 08-30164

D.C. Nos. 2:07-cr-00321-TSZ
2:02-cr-00241-TSZ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, Senior District Judge, Presiding

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Chadwick Edward Asheim appeals from the 60-month sentence imposed following his guilty-plea conviction for attempted bank robbery, 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. § 2113(a), and the 6-month consecutive sentence following revocation of supervised release for committing a new law violation of attempted bank robbery. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Asheim contends that the district court erred by denying his request for an adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a). The district court did not err because Asheim waived his right to seek such an adjustment. *See United States v. Olano*, 507 U.S. 725, 733 (1993); *cf. United States v. De la Fuente*, 8 F.3d 1333, 1337 (9th Cir. 1993) (traditional contract law principles usually apply to plea agreements).

Asheim also contends that the district court failed to adequately explain the reasons for rejecting his attorney's non-frivolous arguments relating to his mental health problems. There was no plain error affecting Asheim's substantial rights. *See Rita v. United States*, 551 U.S. 338, 357-58 (2007); *see also United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008).

Finally, we deny as moot the government's request to strike certain portions of Asheim's opening brief.

AFFIRMED.