

SEP 03 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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>RONALD L. SMITH,</p> <p>Defendant - Appellant.</p>

No. 08-30337

D.C. No. 2:08-cr-00032-JLQ

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Justin L. Quackenbush, Senior District Judge, Presiding

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Ronald L. Smith appeals from the 92-month sentence imposed following his guilty-plea conviction for felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* 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).

Smith contends that, at sentencing, the district court violated the separation of powers doctrine by admitting documents and calling and questioning a witness on its own initiative. The district court did not act improperly. *See* Fed. R. Evid. 614; *see also United States v. Alfaro*, 336 F.3d 876, 883-84 (9th Cir. 2003).

AFFIRMED.