

SEP 30 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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>BARRY A. SCOTT,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 08-30460

D.C. No. 2:07-CR-00093-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Robert H. Whaley, Senior District Judge, Presiding

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Barry A. Scott appeals from the district court's denial of his motion to suppress evidence of child pornography found during a border search in which

* 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).

officials searched Scott's laptop computer and compact discs. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Scott contends that the district court violated his rights under the First and Fourth Amendments of the United States Constitution by concluding that the border search of his laptop and private discs did not require reasonable suspicion. This contention is foreclosed. *See United States v. Arnold*, 533 F.3d 1003, 1008, 1010 (9th Cir. 2008). Scott's contention that the search occurred in a "particularly offensive" manner also fails. *See id.* at 1009-10.

We decline Scott's request to reconsider *Arnold*. *See Hart v. Massanari*, 266 F.3d 1155, 1171 (9th Cir. 2001).

AFFIRMED.