

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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>RODNEY ROYCE MILLER,</p> <p>Defendant - Appellant.</p>

No. 09-30024

D.C. No. 4:08-CR-00103-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted September 14, 2009**

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

Rodney Royce Miller appeals from the 35-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm

* 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).

and ammunition, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Miller contends that the district court erred at sentencing by failing to adequately explain the sentence. He further contends that his sentence within the Guidelines range is substantively unreasonable in light of the nature of the offense and his history and characteristics. The district court did not procedurally err at sentencing. *See United States v. Carty*, 520 F.3d 984, 993, 995-96 (9th Cir. 2008) (en banc). Moreover, the sentence is not substantively unreasonable. *See Carty*, 520 F.3d at 996; *United States v. Nichols*, 464 F.3d 1117, 1125-26 (9th Cir. 2006).

AFFIRMED.