

OCT 07 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NOT FOR PUBLICATION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.

ARTURO REYES-RODRIGUEZ,

Defendant - Appellant.

No. 07-30450

D.C. No. CR-06-05637-FDB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Submitted September 14, 2009**

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

Arturo Reyes-Rodriguez appeals his jury-trial conviction for drug crimes,
and possession of a firearm in furtherance of a drug trafficking offense, in violation

* 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).

of 21 U.S.C. §§ 841(a)(1) and 18 U.S.C. § 924(c)(1)(A). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

The sole argument on appeal is that trial counsel was ineffective. Although we generally do not review such claims on direct appeal, here the record is sufficiently developed to permit us to resolve the issue. *See United States v. Vgeri*, 51 F.3d 876, 882 (9th Cir. 1995).

There is no “reasonable probability that, but for counsel’s [allegedly] unprofessional errors, the result of the proceeding would have been different.” *See Strickland v. Washington*, 466 U.S. 668, 694 (1984). Therefore, Reyes-Rodriguez was not prejudiced by his counsel’s allegedly deficient performance, and we reject his contention that he was denied ineffective assistance of counsel. *See Strickland*, 466 U.S. at 697 (“[A] court need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies.”).

AFFIRMED.