

OCT 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>ANTHONY WAYNE JONES,</p> <p>Defendant - Appellant.</p> |
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No. 08-50286

D.C. No. 2:07-cr-00926-GPS-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George P. Schiavelli, District Judge, Presiding

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON and CLIFTON, Circuit Judges.

Anthony Wayne Jones appeals from the 62-month sentence imposed following his guilty plea to bank fraud, aggravated identity theft and conspiracy, in

* 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).

violation of 18 U.S.C. §§ 1344, 1028A and 371, respectively. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Wayne contends his sentence is unreasonable because the district court did not adequately consider the factors listed in 18 U.S.C. § 3553(a), including Jones's mitigation argument as to his personal history. We disagree. The sentence is procedurally reasonable in that it was correctly calculated. *See United States v. Stotereau*, 524 F.3d 988, 998 (9th Cir. 2008), *cert. denied*, 129 S. Ct. 957 (2009); *United States v. Carty*, 520 F.3d 984, 993 (9th Cir.) (en banc), *cert. denied sub nom Zavala v. United States*, 128 S. Ct. 2491 (2008). Moreover, the record reflects the district court considered the § 3553(a) factors and the parties' arguments. *See Stotereau*, 524 F.3d at 999 (explaining that district court does not abuse its discretion in listening to a defendant's arguments, then finding circumstances insufficient to warrant a lower sentence). We conclude the sentence is reasonable. *See Carty*, 520 F.3d at 993.

AFFIRMED.