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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NOT FOR PUBLICATION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>ALFRED VINCENT HAVIER, Jr.,</p> <p>Defendant - Appellant.</p> |
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No. 09-10069

D.C. No. 4:07-CR-00379-FRZ-HCE-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted September 2, 2009**
San Francisco, California

Before: HUG, SKOPIL and BEEZER, Circuit Judges.

Alfred Vincent Havier appeals from the district court’s sentence of 63 months imprisonment following his plea of guilty to charges of sexually abusing a minor. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the district

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

court's sentencing procedure for plain error. United States v. Autery, 555 F.3d 864, 868–70 (9th Cir. 2008). We review the reasonableness of the district court's sentence for abuse of discretion. Id. at 870–71.

The facts of this case are known to the parties. We do not repeat them.

“Whether sound discretion has been exercised must be answered in each case through a thorough review of the record.” United States v. Barker, 771 F.2d 1362, 1366 (9th Cir. 1985). After reviewing the record in full, we determine that the district court exercised sound discretion in this case. The district court did not plainly err, nor did it abuse its discretion in declining to credit Havier with time served in tribal custody.

AFFIRMED.