

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 11 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CURTIS ANTHONY KNIGHT,

Defendant - Appellant.

No. 09-30023

D.C. No. 2:08-cr-00071-WFN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, Senior District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Curtis Anthony Knight appeals from the two concurrent 92-month sentences imposed following his guilty-plea conviction for being a felon in possession of a

* 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).

firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we vacate and remand.

Knight contends, and the government concedes, that his sentence should be vacated in light of our intervening decision in *United States v. Christensen*, 559 F.3d 1092, 1094-95 (9th Cir. 2009). We therefore vacate Knight's sentence and remand for resentencing. *See United States v. Jennings*, 515 F.3d 980, 992-93 (9th Cir. 2008) (holding that the modified categorical approach does not apply when the crime of conviction is missing an element of the generic crime).

In light of this disposition, we decline to address Knight's contention that his sentence is substantively unreasonable.

VACATED and REMANDED.