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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. SUCH SUONG, Defendant - Appellant.	No. 08-30444 D.C. No. 2:08-cr-00207-MJP MEMORANDUM[*]

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge, Presiding

Submitted February 16, 2010[**]

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Such Suong appeals from the 140-month sentence imposed following his guilty-plea conviction for possession with intent to distribute a controlled

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[*] This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

AH/Research

substance, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Suong contends that he was denied effective assistance of counsel at sentencing when counsel failed to argue a mitigating factor, to produce evidence in support of sentencing arguments, and to seek a continuance to obtain further evidence in support of sentencing arguments. We are precluded from reaching the merits of Suong's claim by a valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958-59 (9th Cir. 2000); *see also United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

AFFIRMED.