

MAY 28 2010

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NOT FOR PUBLICATION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.

EDWARD NINO ALFARO,

Defendant - Appellant.

No. 09-30033

D.C. No. 1:07-CR-00057-BLW-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief District Judge, Presiding

Argued and Submitted May 24, 2010
Pocatello, Idaho

Before: KOZINSKI, Chief Judge, TROTT and N.R. SMITH, Circuit Judges.

1. “[B]ecause the jury would learn of his [prior conviction] in any event,”
Estelle v. Williams, 425 U.S. 501, 507 (1976) (internal quotation marks omitted),
and because the trial court appropriately instructed the venire, Alfaro was not
deprived of his constitutional right to a fair trial.

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

2. Alfaro's sentence was not procedurally erroneous or substantively unreasonable. *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.