

JUN 18 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NOT FOR PUBLICATION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.

JEFFREY RONALD BANKER,

Defendant - Appellant.

No. 09-30380

D.C. No. 6:02-cr-60027-MRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Jeffrey Ronald Banker appeals from the 125-month sentence imposed upon resentencing. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Banker contends the district court erred by sentencing him as a career

* 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).

offender because his bank robbery conviction for the instant offense and other prior convictions were all part of a common course of conduct. The district court properly classified Banker as a career offender because Banker's prior qualifying convictions are factually and temporally distinct from his bank robbery conviction. *See* U.S.S.G. § 4B1.1(a)(3); *see also United States v. Gallegos-Gonzalez*, 3 F.3d 325, 328 (9th Cir. 1993) (appellant's classification as a career offender under section 4B1.1 was proper).

AFFIRMED.