

JUN 21 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NOT FOR PUBLICATION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.

NATHANIEL JAY REED,

Defendant - Appellant.

No. 09-30318

D.C. No. 1:08-cr-00143-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Chief Judge Richard F. Cebull Presiding

Submitted May 25, 2010 **

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

Nathaniel Jay Reed appeals from his 151-month sentence of imprisonment and lifetime term of supervised release for aggravated sexual abuse, in violation of

* 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).

18 U.S.C. § 1153(a); 18 U.S.C. § 2241(a)(1). We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

The record indicates that the district court's imposition of a lifetime term of supervised release was animated in part by a misreading of the sentencing Guidelines in the Presentence Investigation Report. *See* U.S.S.G. § 5D1.2(b) (policy statement). The Government concedes this procedural error. Though neither party alerted the district court to this misreading, it affected Reed's substantial rights. *See United States v. Waknine*, 543 F.3d 546, 554-555 (9th Cir. 2008). Accordingly, we remand for resentencing.

VACATED and REMANDED.