

JUL 20 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NOT FOR PUBLICATION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.

CHRISTOPHER HUITT,

Defendant - Appellant.

No. 09-30351

D.C. No. 1:07-cr-00090-BLW-1

MEMORANDUM*

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

Submitted July 16, 2010**
Portland, Oregon

Before: PREGERSON, WARDLAW and RAWLINSON, Circuit Judges.

Christopher Huitt appeals the sentence that he received on remand.

We affirm.

* 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).

Huitt argues that we should reverse his sentence because the district court abused its discretion by (1) not recalculating the Guidelines upon re-sentencing, and (2) unreasonably applying the Guidelines' distribution enhancement, which failed to account for variation in the number of images distributed. These arguments are unpersuasive.

The mandate did not require the district court to go through the motions of recalculating the Guidelines range. United States v. Huitt 316 Fed. Appx. 595, 596 (9th Cir. March 4, 2009). But even if it had, the district court correctly recalculated the Guidelines range. See Gall v. United States, 128 S. Ct. 586, 597 (2007). Additionally, even if the inclusion of the child pornography distribution enhancement was unreasonable, the district court properly considered the section 3553(a) factors and adequately explained the sentence, rendering the sentence as a whole substantively reasonable. See United States v. Barsumyan, 517 F.3d 1154, 1158-59 (9th Cir. 2008). Accordingly, we AFFIRM.