

JUL 23 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NOT FOR PUBLICATION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.

DAVID EUGENE THOMPSON, Sr.,

Defendant - Appellant.

No. 09-30288

D.C. No. 2:07-cr-00436-MJP-1

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

David Eugene Thompson, Sr., appeals from his jury-trial conviction for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We

* 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).

have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Thompson contends that the district court erred by declining to instruct the jury regarding a justification defense. The district court did not abuse its discretion, *see United States v. Perdomo-Espana*, 522 F.3d 983, 986 (9th Cir. 2008), because Thompson failed to establish a factual basis for a justification defense. *See United States v. Wofford*, 122 F.3d 787, 790-92 (9th Cir. 1997).

Because Thompson is represented by counsel, only counsel may submit filings and we therefore decline to consider the pro se letters received on November 24, 2009, and November 27, 2009.

AFFIRMED.