

AUG 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>JAMES RALPH HENDERSHOT, III,</p> <p>Defendant - Appellant.</p>

No. 08-30002

D.C. No. CR-06-00032-CCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Charles C. Lovell, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

James Ralph Hendershot, III appeals from his 16-month sentence of imprisonment and three-year term of supervised release imposed following his jury-trial conviction for social security fraud in violation of 42 U.S.C. § 408(a)(4)

* 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).

and theft of federal government money in violation of 18 U.S.C. § 641. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Contrary to Hendershot's contention, the imposition of his term of supervised release does not violate the terms of U.S.S.G. § 5C1.1(d).

We also reject Hendershot's contention that his term of supervised release was not authorized by statute. *See* 18 U.S.C. § 3583(a) ("The court . . . may include as a part of the sentence . . . a term of supervised release after imprisonment"); *see also* 18 U.S.C. § 3583(b) (for a Class C or Class D felony, not more than three years of supervised release may be imposed).

AFFIRMED.