

AUG 04 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NOT FOR PUBLICATION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 - Appellant,

v.

RICHARD LEE HELLMAN,

Defendant - Appellee.

No. 09-50173

D.C. No. 2:06-cr-00754-RMT-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert M. Takasugi, District Judge, Presiding

Submitted August 2, 2010**
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **REINHARDT**, Circuit Judge and
WHYTE, District Judge.***

* 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).

*** The Honorable Ronald M. Whyte, Senior United States District Judge for the Northern District of California, sitting by designation.

The government failed to object below and hasn't shown a "reasonable probability that [Hellman] would have received a different sentence but for the district court's error." United States v. Gonzalez-Zotelo, 556 F.3d 736, 741 (9th Cir. 2009).

AFFIRMED.