

SEP 28 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NOT FOR PUBLICATION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>DEREK ARD,</p> <p>Defendant - Appellant.</p>

No. 08-30158

D.C. No. 1:06-cr-00125-RFC-1

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Derek Ard appeals from the 175-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846. We have jurisdiction under 28 U.S.C. § 1291, and 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).

Ard contends the district court erred by applying a three-level adjustment under U.S.S.G § 3B1.1(b) for his role as a manager or supervisor in the offense. We review for clear error the district court's determination as to whether a defendant qualifies for a role adjustment. *See United States v. Maldonado*, 215 F.3d 1046, 1050 (9th Cir. 2000). The district court did not clearly err in light of evidence that Ard served as one of the two primary distributors for the leader of the conspiracy, and that Ard was fronted drugs to sell to other distributors. *See United States v. Egge*, 223 F.3d 1128, 1132 (9th Cir. 2000) (three-level adjustment was proper where defendant used others to help him sell drugs).

AFFIRMED.