

OCT 13 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NOT FOR PUBLICATION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.

SKYLER JAMES FOWLER,

Defendant - Appellant.

No. 09-10457

D.C. No. 3:08-cr-00042-ECR

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Jr., District Judge, Presiding

Submitted September 13, 2010**

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

Skyler James Fowler appeals from the 46-month sentence imposed following his guilty-plea conviction for possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B). We have jurisdiction under 28 U.S.C. § 1291, and we dismiss.

* 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).

Fowler contends that the district court committed several procedural errors, including failing to adequately explain why his sentence was not greater than necessary, consider that he was a juvenile when some of his conduct occurred, take into account the differences in adult versus juvenile punishments, and consider that the child pornography Sentencing Guidelines are not entitled to deference. Fowler also appears to contend that his sentence is substantively unreasonable. The claimed errors are barred by Fowler's appeal waiver set forth in his plea agreement. *See United States v. Baramdyka*, 95 F.3d 840, 843 (9th Cir. 1996). Contrary to Fowler's contention, the district court's comments explaining the appeals process did not invalidate his waiver. *See United States v. Watson*, 582 F.3d 974, 987-88 (9th Cir. 2009). We therefore enforce the waiver and dismiss the appeal.

DISMISSED.