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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>ERICK THOMAS RED DOG,</p> <p style="text-align: center;">Defendant - Appellant.</p> |
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No. 10-30076

D.C. No. 4:09-cr-00084-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Erick Thomas Red Dog appeals from the 33-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We dismiss Red Dog’s appeal.

* 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).

Red Dog contends that his within-Guideline sentence is substantively unreasonable because it violates the parsimony principle and because it fails to account for his mitigating circumstances. We are precluded from reaching the merits of Red Dog's claim by a valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958-59 (9th Cir. 2000); *see also United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

DISMISSED.