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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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p>v.</p> <p>HUY CHI LUONG, AKA Chi Fei, AKA Jimmy Luong,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 09-10420

D.C. No. 3:96-cr-00094-MHP-2

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Marilyn H. Patel, Senior District Judge, Presiding

Argued and Submitted September 14, 2010  
San Francisco, California

Before: WALLACE and THOMAS, Circuit Judges, and MILLS, Senior District  
Judge.\*\*

Luong appeals from the district court’s imposition of a five-year consecutive  
sentence for one violation of 18 U.S.C. § 924(c)(1) (1997). We review a district

32 \* This disposition is not appropriate for publication and is not precedent  
33 except as provided by 9th Cir. R. 36-3.

34 \*\* The Honorable Richard Mills, Senior United States District Judge for the  
35 Central District of Illinois, sitting by designation.

court's construction and application of a mandatory minimum sentence provision de novo. *United States v. Hoyt*, 879 F.2d 505, 511 (9th Cir. 1989), *as amended*, 888 F.3d 1257 (9th Cir. 1989). We have jurisdiction over this timely appeal under 28 U.S.C. § 1291 and 18 U.S.C. § 3742. We affirm.

18 U.S.C. § 924(c) requires a mandatory consecutive five-year sentence for its violation, and the district court had no choice but to impose it in sentencing Luong. *See United States v. Hungerford*, 465 F.3d 1113, 1118 (9th Cir. 2006). Luong contends that in a separate case filed in the Eastern District of California, the district court's money laundering sentences improperly considered his section 924(c) conviction which is before us. However, it is the Eastern District of California court's sentence with which Luong actually takes issue, not this appeal from the Northern District of California Court. His double jeopardy challenge can be raised in his appeal from the Eastern District of California sentence.

**AFFIRMED.**