

MAR 14 2011

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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NOT FOR PUBLICATION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 style="text-align: center;">v.</p> <p>MAATAUA KALAPU MANOGIAMANU,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 10-30193

D.C. No. 3:10-cr-00020-HRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
H. Russel Holland, District Judge, Presiding

Submitted March 8, 2011**

Before: FARRIS, LEAVY, and BYBEE, Circuit Judges.

Maataua Kalapu Manogiamanu appeals from his guilty-plea conviction and 120-month sentence for being a felon in possession of firearms and ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction under 28

* 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).

U.S.C. § 1291, and we affirm.

Manogiamanu first contends that the district court procedurally erred when it failed to explain why it rejected his request for a lesser sentence given the fact that his acceptance of responsibility did not result in a sentence lower than the statutory maximum. The record reflects that the district court appropriately considered the 3553(a) factors, and adequately explained why a lesser sentence was not warranted. *See Rita v. United States*, 551 U.S. 338, 359 (2007).

Manogiamanu next contends that the district court procedurally erred by applying a presumption of reasonableness to a Guideline sentence and treated the Guidelines as mandatory. The record belies this contention.

Finally, the record reflects that the sentence imposed is substantively reasonable in light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3553(a). *See Gall v. United States*, 552 U.S. 38, 51-52 (2007).

AFFIRMED.