

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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>JOHN ANTHONY MILLER,</p> <p>Defendant - Appellant.</p>

No. 10-50086

D.C. No. 2:08-cr-01382-CAS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Submitted March 8, 2011**

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

John Anthony Miller appeals from the 159-month sentence imposed following his guilty-plea conviction for bribery of a public official in violation of 18 U.S.C. § 201(b)(1), making a false statement in a passport application in violation of 18 U.S.C. § 1542, aggravated identity theft in violation of 18 U.S.C.

* 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).

§ 1028A, and mail fraud in violation of 18 U.S.C. § 1341. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Miller contends that the district court procedurally erred when it failed to consider or explain why it rejected the government's request for a three-level downward variance in light of Miller's cooperation.

The record reflects that the district court considered the arguments and adequately explained that in light of the severity of the offense, a sentence below the Guidelines range was not warranted. *See Rita v. United States*, 551 U.S. 338, 359 (2007); *see also United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008) (en banc).

AFFIRMED.