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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NOT FOR PUBLICATION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>LEE MITCHELL,</p> <p>Defendant - Appellant.</p>
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No. 09-10318

D.C. No. 2:08-cr-00255-JCM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Submitted March 8, 2011**

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

Lee Mitchell appeals from the 84-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 Mitchell’s appeal.

Mitchell contends that the district court erred in calculating the Guidelines

* 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).

range by applying the 4-level enhancement under U.S.S.G. §2K2.1(b)(6) for use of a firearm in connection with another felony offense. We are precluded from reaching the merits of Mitchell's claim by a valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958-59 (9th Cir. 2000).

DISMISSED.