

APR 11 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL BEKELE ARAYA, a.k.a. SEAL
A,

Defendant - Appellant.

No. 08-50447

D.C. No. 5:04-cr-00067-SGL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen G. Larson, District Judge, Presiding

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Daniel Bekele Araya appeals from the 42-month sentence imposed following his guilty-plea conviction for trafficking in contraband cigarettes, in violation of 18 U.S.C. § 2342(a), and smuggling goods into the United States, in

* 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).

violation of 18 U.S.C. § 545. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Araya contends that counsel was ineffective for failing to inform the government of his intent to plead guilty in a timely manner. We decline to address this claim on direct appeal as the record is insufficiently developed, and Araya's legal representation was not so inadequate that it obviously denied him his Sixth Amendment right to counsel. *See United States v. Ross*, 206 F.3d 896, 900 (9th Cir. 2000).

AFFIRMED.