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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NOT FOR PUBLICATION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>ANDREW P. DELIO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 09-50339

D.C. No. 2:08-cr-01235-PA

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Andrew P. Delio appeals from the 15-month sentence imposed following his guilty-plea conviction for wire fraud, in violation of 18 U.S.C. § 1343, and impersonating a Federal Officer or Employee, in violation of 18 U.S.C. § 912. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Delio contends that the district court procedurally erred at sentencing by relying on a clearly erroneous interpretation of a 1994 incident, and that the above-Guidelines sentence is substantively unreasonable. The record reflects that the district court did not procedurally err, and in light of the totality of the circumstances, the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.