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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NOT FOR PUBLICATION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>ANDREW P. DELIO,</p> <p>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.