

DEC 22 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NOT FOR PUBLICATION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>DANA RAY REYNOLDS,</p> <p>Defendant - Appellant.</p>
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No. 10-50546

D.C. No. 2:09-cr-01067-AHM

MEMORANDUM\*

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

Submitted December 19, 2011\*\*

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Dana Ray Reynolds appeals from the 18-month sentence imposed following his guilty-plea conviction for subscribing to a false tax return, in violation of 26 U.S.C. § 7206(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Reynolds contends that the district court procedurally erred by failing to properly consider the 18 U.S.C. § 3553(a) sentencing factors, and instead imposed a sentence based on the court's displeasure with how the United States Attorney's office handled tax cases, assumed the nature of the offense was more serious, and punished him for conduct other than what he pled guilty to.

The record reflects that the district court considered the relevant sentencing factors, in conjunction with Reynold's mitigating arguments, but found the circumstances insufficient to warrant a sentence below the one imposed. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Reynold's sentence was based on the admissions made pursuant to his plea agreement, the seriousness of the offense, the need to protect the public, and the need to provide adequate deterrence.

The two-month above-Guideline sentence is substantively reasonable in light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3553(a). *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

**AFFIRMED.**