

APR 19 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EUGENE GERRARD,

Defendant - Appellant.

No. 11-10443

D.C. No. 1:10-cr-00804-DAE

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
David A. Ezra, District Judge, Presiding

Submitted April 17, 2012\*\*

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Eugene Gerrard appeals from the 30-month sentence imposed following his guilty-plea conviction for possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4). 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).

Gerrard contends that the district court committed procedural error by relying on personal knowledge and unsupported facts in determining the sentence. We review for plain error, *see United States v. Grant*, 664 F.3d 276, 279 (9th Cir. 2011), and we find none. The record reflects that the district court's characterization of Gerrard's offense conduct and his history and characteristics was not improper. *See United States v. Autery*, 555 F.3d 864, 874-75 (9th Cir. 2009). Furthermore, Gerrard has not demonstrated that the alleged factual errors by the district court affected his substantial rights. *See United States v. Dallman*, 533 F.3d 755, 761-62 (9th Cir. 2008).

**AFFIRMED.**