

MAY 21 2012

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NOT FOR PUBLICATION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.

MICHAEL RICHARD STEARNS,

Defendant - Appellant.

No. 11-30201

D.C. No. 3:10-cr-00112-TMB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, District Judge, Presiding

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Michael Richard Stearns appeals from his guilty-plea conviction and 57-month sentence for being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction under 28 U.S.C. § 1291,

* 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).

and we vacate and remand.

Stearns contends that his guilty plea was involuntary and that the district court did not comply with Federal Rule of Criminal Procedure 11 before accepting his guilty plea. He seeks to withdraw his guilty plea based on the alleged deficiencies. The government acquiesces in Stearns's request for relief. We vacate Stearns's conviction and sentence, and remand to the district court with instructions to allow Stearns to withdraw his guilty plea and for further proceedings.

VACATED AND REMANDED.