

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 17 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES PAUL LEWIS, Jr., AKA Seal A,
AKA James P. Lewis, Jr.,

Defendant - Appellant.

No. 10-55618

D.C. Nos. 8:10-cv-00261-CJC
8:04-cr-00016-CJC-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Argued and Submitted May 8, 2013
Pasadena, California

Before: PREGERSON and FISHER, Circuit Judges, and DANIEL, District
Judge.**

James P. Lewis appeals the district court's denial of his 28 U.S.C. § 2255
motion. We have jurisdiction under 28 U.S.C. §§ 1291 and 2253, and we affirm.

*This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

**The Honorable Wiley Y. Daniel, Senior United States District Judge for
the District of Colorado, sitting by designation.

Notwithstanding his counsel's sentencing prediction, the plea agreement, the prosecutor, and the district court fully informed Lewis that he could be sentenced to the statutory maximum of 30 years and that the district court retained ultimate discretion in sentencing Lewis to any reasonable sentence within that maximum. Because Lewis was fully apprised of his sentencing exposure, and his responses during the plea colloquy manifested his understanding of such exposure, Lewis' claim that his plea was involuntary due to ineffective assistance of counsel fails. *See Womack v. Del Papa*, 497 F.3d 998, 1003 (9th Cir. 2007).

Because "the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief," the district court did not abuse its discretion in denying Lewis' motion without an evidentiary hearing. 28 U.S.C. § 2255(b).

AFFIRMED.