

MAY 21 2013

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NOT FOR PUBLICATION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.

HENRY STUCKEY,

Defendant - Appellant.

No. 12-10456

D.C. No. 2:11-cr-00021-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted May 14, 2013**

Before: LEAVY, THOMAS, and MURGUIA, Circuit Judges.

Henry Stuckey appeals from the district court's judgment and challenges the 137-month sentence imposed following his guilty-plea conviction for mail fraud, in violation of 18 U.S.C. § 1241; wire fraud, in violation of 18 U.S.C. § 1343; and

* 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).

simple assault, in violation of 18 U.S.C. § 111(a)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Stuckey contends that the district court erred by denying him a three-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1. We review for clear error the district court's decision to deny a reduction for acceptance of responsibility. *See United States v. Fleming*, 215 F.3d 930, 939 (9th Cir. 2000).

The district court did not clearly err in declining to grant a reduction for acceptance of responsibility because the record reflects that, during the sentencing hearing, Stuckey sought to minimize the extent of his criminal culpability and fraudulent intent. *See id.* at 940 (concluding that a defendant who “maintained that he acted with an empty head but a pure heart” did not accept responsibility for his offense).

AFFIRMED.