

JUN 21 2013

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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NOT FOR PUBLICATION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.

SCOTT JAMES,

Defendant - Appellant.

No. 12-10466

D.C. No. 2:11-cr-00208-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Jr., District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Scott James appeals from the district court’s judgment and challenges the 80-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

James contends that the district court violated his due process rights by relying on hearsay evidence that lacked sufficient indicia of reliability to support an upward adjustment for obstruction of justice under U.S.S.G. § 3C1.1 and an upward variance. *See United States v. Petty*, 982 F.2d 1365, 1369 (9th Cir. 1993), *amended by* 992 F.2d 1015 (9th Cir. 1995) (“Due process requires that some minimal indicia of reliability accompany a hearsay statement.”). We review the district court’s determination of reliability for abuse of discretion. *See id.* The district court did not abuse its discretion in concluding that the testimony of a special agent relaying the statements of disinterested university officials was sufficiently reliable.

AFFIRMED.