

AUG 01 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NOT FOR PUBLICATION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.

MARSHALL D. LAPIER,

Defendant - Appellant.

No. 12-30401

D.C. No. 4:12-cr-00002-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Marshall D. Lapier appeals from the district court's judgment and challenges the denial of his motion for judgment of acquittal under Federal Rule of Criminal Procedure 29. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a

* 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).

district court's denial of a motion for acquittal, *see United States v. Gonzalez-Torres*, 309 F.3d 594, 598 (9th Cir. 2002), and we affirm.

Lapier contends that his conviction under 18 U.S.C. § 922(g)(1) violates his right to due process because section 922 does not require that he be provided notice that he was prohibited from possessing a firearm. As Lapier acknowledges, this court has previously rejected such arguments. *See, e.g., United States v. Hancock*, 231 F.3d 557, 563-65 (9th Cir. 2000) (rejecting notice-based due process challenge to statute prohibiting domestic violence misdemeanants from possessing firearms); *United States v. Allen*, 699 F.2d 453, 458 (9th Cir. 1982) (rejecting same challenge to felon-in-possession statute). Lapier's contention that recent Supreme Court decisions undermine this precedent is unpersuasive. *See Dist. of Columbia v. Heller*, 554 U.S. 570, 626 (2008) (“[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons . . .”).

AFFIRMED.