

SEP 10 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>ERIC LEE MANY GUNS,</p> <p>Defendant - Appellant.</p>
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No. 12-30400

D.C. No. 4:12-cr-00045-SEH

MEMORANDUM\*

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

Submitted July 30, 2013\*\*

Before: HUG, CANBY, and LEAVY, Circuit Judges.

Eric Lee Many Guns appeals from the district court’s judgment and challenges the 33-month sentence imposed following his guilty-plea conviction for assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 113(a)(6) and 1153(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Many Guns contends that his 33-month sentence is substantively unreasonable because the district court gave insufficient weight to his alcoholism and undue weight to his tribal criminal history, which scored no criminal history points under the Guidelines. The district court did not abuse its discretion in imposing Many Guns's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The within-Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including the severity of the assault and his extensive tribal criminal history. *See id.*

**AFFIRMED.**