

OCT 10 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NOT FOR PUBLICATION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.

RICHARD JOSEPH BENSON,

Defendant - Appellant.

No. 13-50019

D.C. No. 3:12-cr-02864-CAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cathy Ann Bencivengo, District Judge, Presiding

Submitted October 7, 2013**
Pasadena, California

Before: FERNANDEZ, PAEZ, and HURWITZ, Circuit Judges.

Richard Benson appeals the sentence imposed following his conviction by a jury of misdemeanor assault on a federal officer in violation of 18 U.S.C. § 111. We have jurisdiction pursuant to 28 U.S.C. § 1291 and 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).

We review a district court's application of the Sentencing Guidelines to the facts of a case for abuse of discretion. *United States v. Garcia-Guerrero*, 635 F.3d 435, 438 (9th Cir. 2010). The district court did not abuse its discretion here. It properly referred to the statutory index in Appendix A of the United States Sentencing Guidelines (USSG) to select the guideline applicable to the offense for which Benson was convicted. *United States v. Takashi*, 205 F.3d 1161, 1166 (9th Cir. 2000). The index lists USSG § 2A2.4 as the guideline applicable to a conviction under 18 U.S.C. § 111. Section 2A2.4, in turn, cites specifically to 18 U.S.C. § 111 and takes into account that the offense of conviction involved a federal officer acting in the course of his duty.

AFFIRMED.