

JAN 29 2018

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NOT FOR PUBLICATION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.

ROHIT REDDY,

Defendant-Appellant.

No. 16-30312

D.C. No. 2:16-cr-00189-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted January 16, 2018**

Before: REINHARDT, TROTT, and HURWITZ, Circuit Judges.

Rohit Reddy appeals the 14-month sentence imposed following his guilty-plea conviction for SNAP benefit fraud in violation of 7 U.S.C. § 2024. 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 Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Reddy contends that the district court violated his right to due process by relying on the Guidelines' instruction to make "a reasonable estimate" of the loss caused by his fraud without specifying the methodology it used to establish its estimate. *See* U.S.S.G. § 2B1.1 cmt. n.3(C). We disagree. The record reflects that the court explained its methodology for determining loss, and that its methodology was reasonable. Even assuming that the court's calculation had to be supported by clear and convincing evidence, *see United States v. Mezas de Jesus*, 217 F.3d 638, 642 (9th Cir. 2000) (clear and convincing standard applies "when a sentencing factor has an extremely disproportionate effect on the sentence relative to the offense of conviction" (internal quotations omitted)), the record shows that it was. The court did not clearly err in its loss calculation, *see United States v. Garro*, 517 F.3d 1163, 1167 (9th Cir. 2008), or violate Reddy's due process rights, *see United States v. Christensen*, 732 F.3d 1094, 1106 (9th Cir. 2013) ("To establish that his due process rights were violated, [a defendant] must show that materially false or unreliable information was demonstrably made the basis for the sentence imposed by the district court.").

AFFIRMED.