

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 19 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNNY RAY THOMAS, a.k.a. Snap,
a.k.a. Baby Snap,

Defendant - Appellant.

Nos. 08-50242, 08-50243

D.C. No. 2:96-cr-00313-SVW-1

D.C. No. 2:07-cr-00433-SVW

MEMORANDUM *

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted August 11, 2008 **

Before: CANBY, LEAVY and KLEINFELD, Circuit Judges.

The parties' joint motion for summary reversal and remand is granted.

Defendant's sentence is vacated. *See* 18 U.S.C. § 3553(c)(2); *United States v. Miqbel*, 444 F.3d 1173, 1778 (9th Cir. 2006). These consolidated appeals are

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

remanded to the district court for the purpose of re-sentencing defendant.

VACATED and REMANDED.