

MAR 25 2008

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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NOT FOR PUBLICATION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>LAWRENCE PUZON BATAN,</p> <p>Defendant - Appellant.</p>
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No. 06-50453

D.C. No. CR-05-00928-BTM

MEMORANDUM *

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Lawrence Puzon Batan appeals from the 120-month sentence imposed following his guilty-plea conviction for use of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A), as enhanced by 18 U.S.C. § 924(c)(1)(A)(iii).

* 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).

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Batan contends that his Sixth Amendment rights were violated because the district court imposed a sentence higher than the maximum sentence authorized by facts he admitted or were found by a jury.

This contention is foreclosed. *See United States v. Dare*, 425 F.3d 634, 635-36, 640-43 (9th Cir. 2005) (holding that the statutory maximum for § 924(c) is life imprisonment and that the judge may find during sentencing that a defendant discharged a firearm by a preponderance of the evidence).

AFFIRMED.