

JAN 18 2008

CATHY A. CATTERSON, 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NOT FOR PUBLICATION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.

KEVIN KEITH FURLONG,

Defendant - Appellant.

No. 06-30568

D.C. No. CR-03-00020-RFC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Richard F. Cebull, District Judge, Presiding

Submitted January 14, 2008\*\*

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Following a limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), Kevin Keith Furlong appeals from the district court's order concluding that it would not have imposed a materially different

---

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

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

sentence had it known that the United States Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Furlong contends that the district court erred on remand because it failed to understand the full scope of its discretion. However, this contention is belied by the record. *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006). Moreover, because the district court determined that Furlong's sentence would not have been materially different had the district court known that the Guidelines were advisory, Furlong was not entitled to a resentencing hearing. *See id.*; *Ameline*, 409 F.3d at 1085. To the extent Furlong raises additional contentions, these contentions are not reviewable. *See Combs*, 470 F.3d at 1296-97.

**AFFIRMED.**