

AUG 06 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NOT FOR PUBLICATION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>MARIO FLORES, aka Seal,</p> <p>Defendant - Appellant.</p>
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No. 06-50002

D.C. No. CR-01-00738-AHM

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Submitted July 22, 2008\*\*

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Following a limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), Mario Flores appeals from the district court's order

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\* 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).

concluding that it would have imposed the same 188-month sentence had it known that the Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Flores contends that he was entitled to full re-sentencing on remand. However, because this Court ordered a limited remand pursuant to *Ameline* and the district court subsequently ruled that it would not have imposed a different sentence had it known that the Guidelines were advisory, Flores was not entitled to resentencing. *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir.), *cert. denied*, 128 S. Ct. 1071 (2008); *see also United States v. Perez*, 475 F.3d 1110, 1114 (9th Cir. 2007) (holding that district court is required to comply with this Court's mandate).

**AFFIRMED.**