

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NOT FOR PUBLICATION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.

JI SUNG SHIN,

Defendant - Appellant.

No. 06-10697

D.C. No. CR-01-00083-LAB

MEMORANDUM*

Appeal from the United States District Court
for the District of Guam
Larry A. Burns, District Judge, Presiding

Submitted January 14, 2008**

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

Ji Sung Shin appeals from the 48-month sentence imposed following his guilty-plea conviction for use of a communication facility, in violation of 21

* 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).

U.S.C. § 843(b). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Shin contends that his sentence is unreasonable because the district court treated the Sentencing Guidelines as mandatory and did not identify the subsection of 18 U.S.C. § 3553 on which it relied. We disagree. The record reflects that the district court considered the sentencing factors set forth in § 3553(a) and treated the Guidelines as advisory. *See Gall v. United States*, 128 S. Ct. 586, 596-600 (2007).

Shin also contends that his sentence is unreasonable because it is substantially longer than the sentences imposed on three co-defendants. However, the record indicates that “the district court had a reasonable basis under the advisory Sentencing Guidelines for the difference in the sentence each received.” *United States v. Plouffe*, 445 F.3d 1126, 1131-32 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

AFFIRMED.