

JAN 24 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NOT FOR PUBLICATION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.  
  
KEITH TERRY ALDEN,  
  
Defendant - Appellant.

No. 06-10414

D.C. No. CR-02-00236-MJJ

MEMORANDUM\*

UNITED STATES OF AMERICA,  
  
Plaintiff - Appellee,  
  
v.  
  
KEITH ALDEN,  
  
Defendant - Appellant.

No. 06-10435

D.C. No. CR-01-00202-MJJ

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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).

Appeal from the United States District Court  
for the Northern District of California  
Martin J. Jenkins, District Judge, Presiding

Submitted January 14, 2008\*\*

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

Keith Terry Alden appeals from the district court's judgments, following a limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), concluding that it would not have imposed a materially different sentence had it known that the Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Alden contends that his sentence must be reversed because the district court failed to consider the "parsimony principle," a consideration in 18 U.S.C. § 3553(a), when it declined to order full re-sentencing. This contention is not reviewable because the district court determined, on remand, that it would not have imposed a materially different sentence under an advisory Guidelines system. *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006).

Alden also contends that the district court erred by not ordering a re-sentencing hearing. This claim fails because there is no right to re-sentencing on a

limited remand unless the district court determines it would have imposed a materially different sentence. *See id.* at 1297.

**AFFIRMED.**