

MAR 11 2008

MOLLY DWYER, ACTING 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NOT FOR PUBLICATION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.

JORGE BUSTAMANTE-ROCHA,

Defendant - Appellant.

No. 06-10285

D.C. No. CR-03-00564-FJM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frederick J. Martone, District Judge, Presiding

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Jorge Bustamante-Rocha appeals from the district court's amended judgment entered after concluding that it would not have imposed a materially different sentence had it known that the United States Sentencing Guidelines were

* 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).

advisory, following a limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Bustamante-Rocha contends that the district court erred by denying him a two-level downward adjustment for acceptance of responsibility. We conclude that the district court did not clearly err in denying the acceptance of responsibility adjustment. *See* U.S.S.G. § 3E1.1 cmt. n. 2; *see also United States v. Martinez-Martinez*, 369 F.3d 1076, 1088-90 (9th Cir. 2004) (applying U.S.S.G. § 3E1.1 cmt. n. 2).

Bustamante-Rocha also contends that his sentence is unreasonable. This contention is foreclosed because he did not challenge the reasonableness of his sentence in his first appeal. *See United States v. Combs*, 470 F.3d 1294, 1297 (9th Cir. 2006).

AFFIRMED.