

APR 28 2008

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

RICHARD ALVIN ROSSMILLER,

Defendant - Appellant.

No. 07-30262

D.C. No. CR-07-00009-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Richard Alvin Rossmiller appeals from the 30-month sentence imposed following his guilty-plea conviction for manufacturing counterfeit currency in

* 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).

violation of 18 U.S.C. § 471. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Rossmiller contends that the district court erred in applying United States Sentencing Guideline § 5G1.3(a), where it should have applied § 5G1.3(c), and that the district court therefore did not recognize its discretion to impose his federal sentence to run concurrently to his state sentences. Though the district court improperly cited to § 5G1.3(a), *see United States v. Fifield*, 432 F.3d 1056, 1058-59 (9th Cir. 2005), remand is unnecessary because the record indicates that the district court understood its discretion, *see United States v. Arellano-Torres*, 303 F.3d 1173, 1181 (9th Cir. 2002). Additionally, the record suggests that the district court would not have sentenced Rossmiller differently under § 5G1.3(c). *See United States v. Dowd*, 417 F.3d 1080, 1090 (9th Cir. 2005).

Rossmiller also contends that the district court failed to adequately articulate its reasons for his sentence, and that his sentence is unreasonably long. The district court adequately justified Rossmiller's sentence as a whole with reference to the factors listed in 18 U.S.C. § 3553(a), *see Fifield*, 432 F.3d at 1066, and imposed a reasonable sentence, *see United States v. Carty*, Nos. 05-10200, 05-30120, 2008 WL 763770, at *4 (9th Cir. Mar. 24, 2008) (en banc).

AFFIRMED.