

MAY 02 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NOT FOR PUBLICATION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.

MICHAEL ROBERT CLARY,

Defendant - Appellant.

No. 06-30340

D.C. No. CR-05-00385-JCC

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, Chief District Judge, Presiding

Submitted April 22, 2008**

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

Michael Robert Clary appeals from the 64-month sentence imposed following his guilty-plea conviction for being a felon in possession of firearms, in violation of 18 U.S.C. § 922(g)(1), and for making a false statement in connection

* 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).

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with the acquisition of firearms, in violation of 18 U.S.C. § 922(a)(6). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Clary contends that the district court presumed that a sentence within the Guidelines range was appropriate in violation of *Rita v. United States*, 127 S. Ct. 2456, 2465 (2007). This contention is belied by the record.

Clary also contends that his sentence is unreasonable because the district court's discussion of the 18 U.S.C. § 3553(a) factors was inadequate. We conclude that the district court did not procedurally err. *See id.* at 2469; *see also United States v. Carty*, Nos. 05-10200, 05-30120, 2008 WL 763770 at *7-8 (9th Cir. Mar. 24, 2008) (en banc).

AFFIRMED.