

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 15 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SCOTT HEDDINGS,

Defendant - Appellant.

No. 07-30357

D.C. No. CR-06-00076-SEH

MEMORANDUM\*

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

Argued and Submitted December 9, 2008  
Portland, Oregon

Before: O'SCANNLAIN, GRABER, and BYBEE, Circuit Judges.

We vacate the judgment and remand in light of *United States v. Davenport*,  
519 F.3d 940 (9th Cir. 2008). On remand, the district court should vacate either  
Heddings' conviction for receipt or his conviction for possession of child

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

pornography, “allowing for it to be reinstated without prejudice if his other conviction should be overturned on direct or collateral review.” *Id.* at 948.

Any further appeals in this case shall be assigned to this panel.

**REMANDED with instructions.**