

DEC 29 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NOT FOR PUBLICATION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.

KENNETH KETNER,

Defendant - Appellant.

No. 07-50328

D.C. No. CR-05-00036-JVS-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT and RYMER, Circuit Judges.

Kenneth Ketner appeals from the 57-month sentence imposed following his guilty-plea conviction for wire fraud, in violation of 18 U.S.C. § 1343, and money

* 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).

laundering, in violation of 18 U.S.C. § 1957. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Ketner contends that the district court erred by refusing to consider his substantial assistance and cooperation as relevant to its analysis of the 18 U.S.C. § 3553(a) factors. We conclude that the district court understood its discretion and properly considered all mitigating arguments. *See United States v. Carty*, 520 F.3d 984, 995 (9th Cir. 2008) (en banc).

Ketner also contends that the district court erred by relying on unreliable statements when imposing the sentence. We conclude that the district court did not improperly consider statements lacking “minimal indicia of reliability.” *See United States v. Littlesun*, 444 F.3d 1196, 1199-1200 (9th Cir. 2006).

Because we conclude that the sentence is substantively reasonable, we affirm. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007).

AFFIRMED.