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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| UNITED STATES OF AMERICA,<br><br>Plaintiff - Appellee,<br><br>v.<br><br>DINO R. BRADLEY,<br><br>Defendant - Appellant. | No. 07-50494<br><br>D.C. No. CR-93-00907-RMT-006<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the Central District of California
Robert M. Takasugi, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Dino R. Bradley appeals from the district court's order denying a motion under Federal Rule of Criminal Procedure 35(b) to reduce his sentence. We have

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* 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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jurisdiction pursuant to 28 U.S.C. § 3742(a), and we affirm.

Bradley contends that the district court erred by denying his Rule 35 motion, because he did in fact comply with the timing requirements of the rule. This contention fails as the district court correctly found that Bradley could have reasonably anticipated, within one year of sentencing, that the information he ultimately provided would be useful to the government. *See* Fed. R. Crim. P. 35(b)(2)(C).

Bradley also contends that the government's refusal to file a motion pursuant to Rule 35(b) was based upon an unconstitutional motive. There is no evidence in the record to support this claim. *See United States v. Wade*, 504 U.S. 181, 185-86 (1992); *United States v. Leonti*, 326 F.3d 1111, 1119 (9th Cir. 2003).

**AFFIRMED.**