

JAN 15 2009

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NOT FOR PUBLICATION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.

TERRY EARL CLANCY, a/k/a CLANCY  
EARL TERRY,

Defendant - Appellant.

No. 06-50624

D.C. No. CR-97-00434-R

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Submitted December 17, 2008\*\*

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

Terry Earl Clancy appeals pro se from the district court's order denying his motion for a reduction of sentence. We have jurisdiction under 28 U.S.C. § 1291.

We affirm.

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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).

The district court did not err in denying Clancy's motion for sentence reduction based on Amendment 599 to the United States Sentencing Guidelines because the district court did not apply an enhancement for possession of a firearm. *See* U.S.S.G. § 2K2.4 cmt. n.4.

Conviction and punishment for both armed bank robbery in violation of 18 U.S.C. § 2113(a) and (d), and carrying a firearm during the commission of a crime of violence in violation of 18 U.S.C. § 924(c) does not violate the Double Jeopardy Clause. *See United States v. Michlin*, 34 F.3d 896, 900-01 (9th Cir. 1994) ("There is simply no merit to Walker's contention that the indictment violated the Double Jeopardy Clause by charging him both with armed bank robbery in violation of 18 U.S.C. § 2113(a) and (d), and with carrying a firearm during the commission of a crime of violence in violation of § 924(c)."); *United States v. Cannizzaro*, 871 F.2d 809, 810 (9th Cir. 1989) (court does not violate Double Jeopardy Clause by imposing consecutive sentences under 18 U.S.C. § 2113(a) and (d), and 18 U.S.C. § 924(c)).

**AFFIRMED.**