

FEB 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>ROBERT HARVEY WASHBURN,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 07-30471

D.C. No. CR-05-00039-ALH

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ancer L. Haggerty, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Robert Harvey Washburn appeals from the 151-month sentence imposed on remand following his guilty-plea conviction for bank robbery, in violation of 18

* 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).

U.S.C. § 2113(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Washburn contends that the district court procedurally erred by failing to adequately explain why it rejected his request for a downward departure and variance. We conclude that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

Washburn also contends that his sentence is substantively unreasonable because the district court sentenced him as a career offender. Given the totality of the circumstances, we conclude that Washburn's sentence is not substantively unreasonable. *See id.* at 993.

AFFIRMED.