

APR 01 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NOT FOR PUBLICATION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.

BOB LOREN, aka Robert Loren,

Defendant - Appellant.

No. 07-10470

D.C. No. CR-06-00288-JMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
J. Michael Seabright, District Judge, Presiding

Submitted August 26, 2008**

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Bob Loren appeals from his guilty-plea conviction and 10-month sentence for conspiracy to commit marriage fraud, in violation of 18 U.S.C. § 371. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* 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).

Loren contends that his attorney's advice to accept the plea agreement constituted ineffective assistance of counsel because the agreement yielded no sentencing benefits. We conclude that the record is sufficiently developed to allow us to consider Loren's ineffective assistance of counsel claim on direct appeal. *See United States v. Labrada-Bustamante*, 428 F.3d 1252, 1260-61 (9th Cir. 2005). Loren's contention that the plea agreement yielded only illusory sentencing benefits is incorrect because he received a downward adjustment for acceptance of responsibility pursuant to the plea agreement. Loren thus cannot show that his attorney's advice to accept the plea agreement was deficient. *See United States v. Jeronimo*, 398 F.3d 1149, 1155 (9th Cir. 2005). Moreover, Loren cannot demonstrate prejudice. *See Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Accordingly, his ineffective assistance of counsel claim fails. *See id.*

AFFIRMED.