

OCT 05 2010

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NOT FOR PUBLICATION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.

JESSE LEE KNIFE,

Defendant - Appellant.

No. 09-30391

D.C. No. 4:09-cr-00057-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Jesse Lee Knife appeals from the 63-month sentence imposed following his guilty-plea conviction for two counts of assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6). We have jurisdiction under 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 concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Knife contends that his sentence is unreasonable in light of *United States v. Booker*, 543 U.S. 220 (2005), and 18 U.S.C. § 3553(a), because the district court overstated the offense conduct and failed to sufficiently consider his history and characteristics. The record reflects that the district court carefully considered the 18 U.S.C. § 3553(a) sentencing factors, including Knife's history and characteristics and his argument for a sentence below the advisory Guidelines range, and provided a well-reasoned and thorough explanation for the sentence imposed. The district court did not procedurally err, and the sentence is substantively reasonable under the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.