

AUG 02 2016

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NOT FOR PUBLICATION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.

SCOTT H. SUMMERHAYS,

Defendant - Appellant.

No. 15-10267

D.C. No. 3:12-cr-00022-LRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Scott H. Summerhays appeals from the district court's judgment and challenges his guilty-plea conviction and aggregate 234-month sentence for wire fraud, in violation of 18 U.S.C. § 1343; money laundering, in violation of 18 U.S.C. § 1957; and identity theft and aggravated identity theft, 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. §§ 1028(a)(7) and 1028A. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Summerhays, who chose to represent himself, contends that he received ineffective assistance from his standby counsel. Assuming without deciding that Summerhays can assert an ineffective assistance claim against his standby counsel, we decline to consider this claim on direct appeal. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011) (this court reviews ineffective assistance claims on direct appeal only where the record is sufficiently developed or inadequate representation is obvious).

Summerhays next contends that the 234-month sentence is substantively unreasonable. The district court did not abuse its discretion in imposing Summerhay's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The low-end Guidelines sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) factors and the totality of the circumstances, including the sophistication of Summerhays's scheme and the loss amount. *See Gall*, 552 U.S. at 51.

AFFIRMED.