

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 12 2014

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRUCE LEIGHTON DIEHL,

Defendant - Appellant.

No. 13-30287

D.C. No. 4:12-cr-00189-EJL

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted December 5, 2014**

Before: HAWKINS, McKEOWN, and FRIEDLAND, Circuit Judges.

Bruce Leighton Diehl appeals from the district court's judgment and challenges the 72-month sentence imposed following his guilty-plea conviction for unlawful possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). 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).

Diehl contends that the district court erred by denying his pre-trial motion to suppress evidence. Diehl concedes that he entered an unconditional guilty plea. He, therefore, waived the right to appeal the denial of his suppression motion. *See Tollett v. Henderson*, 411 U.S. 258, 267 (1973). Furthermore, contrary to Diehl's contention, the record reflects that his plea was voluntary.

Diehl next contends that the court abused its discretion in imposing the sentence because the court made factual findings to determine Diehl's base offense level in violation of the Sixth Amendment. This argument fails because the court's factual findings affected neither the statutory maximum sentence nor any mandatory minimum sentence applicable to Diehl's conviction and, therefore, the Sixth Amendment was not violated. *See United States v. Vallejos*, 742 F.3d 902, 906-07 (9th Cir. 2014).

AFFIRMED.