

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 21 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NOAH BLUE,

Defendant - Appellant.

No. 14-10478

D.C. No. 4:13-cr-00705-JST

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jon S. Tigar, District Judge, Presiding

Submitted March 15, 2016**

Before: GOODWIN, LEAVY, and CHRISTEN, Circuit Judges.

Noah Blue appeals from the district court's judgment and challenges the 78-month sentence imposed following his guilty-plea conviction for bank robbery and armed bank robbery, in violation of 18 U.S.C. §§ 2113(a) and 3571(d). 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).

Blue contends that the district court erred by failing to grant or compel the government to move for a third-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b). We review for clear error the district court's decision whether to reduce a defendant's sentence for acceptance of responsibility, *see United States v. Cortes*, 299 F.3d 1030, 1037 (9th Cir. 2002), and find none. The government has discretion whether to file a motion for a third-level reduction for acceptance of responsibility and, contrary to Blue's contention, the record reflects that its refusal to do so in this case was based on interests identified in section 3E1.1. *See* U.S.S.G. § 3E1.1 cmt. n.6.

AFFIRMED.