

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 17 2015

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SCOTT HEDDINGS,

Defendant - Appellant.

No. 14-30002

D.C. No. 4:06-cr-00076-DWM-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, Senior District Judge, Presiding

Submitted March 4, 2015**
Portland, Oregon

Before: FISHER, PAEZ, and IKUTA, Circuit Judges.

Scott Heddings appeals the district court's sentence of 240 months in prison following his guilty plea for receipt of child pornography in violation of 18 U.S.C.

* 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).

§ 2252A(a)(2) and destruction or removal of property to prevent seizure in violation of 18 U.S.C. § 2232(a). We have jurisdiction under 28 U.S.C. § 1291.

The district court stated that Heddings's Montana conviction for felony incest was the basis for increasing his offense level for the federal offense under § 2G2.2(b)(5) of the U.S. Sentencing Guidelines. Because Heddings's Missouri convictions for sexual abuse and felony statutory sodomy were not the basis for an increase in the offense level for the federal offense, the district court did not err in declining to apply § 5G1.3(b) (2013) of the Guidelines to impose the sentence on the federal offense to run concurrently with the Missouri sentences. Nor did the district court abuse its discretion in ordering the sentence on the federal offense to run consecutively to the Missouri sentences under § 5G1.3(c) of the Guidelines. *See United States v. Shouse*, 755 F.3d 1104, 1108–09 (9th Cir. 2014).

As Heddings does not appeal his conviction or allege that his plea was involuntary, *United States v. Neely*, 38 F.3d 458 (9th Cir. 1994) (per curiam), is not applicable to a review of Heddings's sentence on appeal.

AFFIRMED.