

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 28 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NICHOLAUS SAINT JAMES, a.k.a. Semaj
Carter, a.k.a. DJ Necterr,

Defendant - Appellant.

No. 14-50152

D.C. No. 5:13-cr-00031-JLQ

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Justin L. Quackenbush, District Judge, Presiding

Submitted September 21, 2015**

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

Nicholaus Saint James appeals the district court's judgment ordering \$5,000 in restitution to Amos Wallace under 18 U.S.C. § 3663A. 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).

Saint James contends that the district court erred by basing the award of restitution to Wallace on hearsay information contained in the presentence report (“PSR”). The parties dispute the standard of review but we need not decide that issue because under any standard, the district court did not err. Saint James did not object to information in the PSR concerning his fraud on Wallace. Thus, the district court properly relied on that information in ordering restitution. *See United States v. Ameline*, 409 F.3d 1073, 1085 (9th Cir. 2005) (en banc) (district court may rely on undisputed statements in the PSR at sentencing); *United States v. Petty*, 982 F.2d 1365, 1370 (9th Cir. 1993) (hearsay may be considered at sentencing as long as it bears “minimal indicia of reliability”).

AFFIRMED.