

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 16 2018

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BARBARA JEAN DENNIS,

Defendant-Appellant.

No. 16-10437

D.C. No. 2:10-cr-00091-KJD

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Kent J. Dawson, District Judge, Presiding

Submitted April 11, 2018**

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

Barbara Jean Dennis appeals from the district court's judgment and challenges the \$80,952.41 restitution order and \$10,000 fine imposed following her guilty-plea conviction for bankruptcy fraud, in violation of 18 U.S.C. § 157(1).

We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Dennis contends that the restitution order fails to comport with the Mandatory Victims Restitution Act, 18 U.S.C. §§ 3663A-3664. The government concedes error and affirmatively waives the opportunity to seek a new restitution order on remand. We agree there was error and vacate the restitution order and remand for the district court to strike it from the judgment.

Upon remand, the district court shall also reconsider the fine imposed under the factors specifically set forth in 18 U.S.C. § 3572(a).

VACATED and REMANDED.