

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 19 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-30211

Plaintiff-Appellee,

D.C. No. 3:15-cr-00107-SI-1

v.

MEMORANDUM*

JASON ANDREW DUNLAP,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Oregon
Michael H. Simon, District Judge, Presiding

Argued and Submitted July 10, 2018
Portland, Oregon

Before: WARDLAW and OWENS, Circuit Judges, and MÁRQUEZ,** District Judge.

Jason Andrew Dunlap (“Defendant”) appeals his sentence, arguing that the district court miscalculated the applicable guideline range and erroneously concluded it lacked authority to sentence Defendant below the statutory mandatory minimum. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

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

** The Honorable Rosemary Márquez, United States District Judge for the District of Arizona, sitting by designation.

We vacate and remand for resentencing in light of *United States v. Reinhart*, 893 F.3d 606 (9th Cir. 2018).

The parties first addressed *Reinhart* in Rule 28(j) letters filed shortly before oral argument. Defendant had previously conceded that the prior state conviction charged in the Information triggered a 25-year mandatory minimum sentence under 18 U.S.C. § 2251(e). However, *Reinhart* constitutes an intervening change in the law that may affect the analysis of this issue, and the parties agree that remand is appropriate to allow the district court to evaluate in the first instance the potential impact of *Reinhart* on the applicable statutory mandatory minimum. Because we find that remand is appropriate in light of *Reinhart*, we decline to address at this juncture the other issues raised in Defendant's appeal.

VACATED and REMANDED for resentencing.