

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10330

Plaintiff-Appellee,

D.C. No. 1:18-cr-00058-JMS

v.

MEMORANDUM*

MITCHUM PASTOR,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Hawaii

J. Michael Seabright, Chief Judge, Presiding

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Mitchum Pastor appeals from the district court's judgment and challenges the 168-month sentence imposed following his guilty-plea conviction for bank robbery and credit union robbery, in violation of 18 U.S.C. § 2113(a). 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 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).

Pastor contends that the district court erred by sentencing him as a career offender because federal bank robbery, 18 U.S.C. § 2113(a), is not a crime of violence under U.S.S.G. §§ 4B1.1 and 4B1.2. As Pastor concedes, this contention is foreclosed. *See United States v. Watson*, 881 F.3d 782, 786 (9th Cir.), *cert. denied*, 139 S. Ct. 203 (2018). Pastor claims that *Watson* should be reconsidered but recognizes that this panel has no power to overrule circuit precedent in this case. *See Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc) (three-judge panel may depart from circuit precedent only if that precedent is “clearly irreconcilable” with intervening higher authority).

AFFIRMED.