

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 12 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BRANDON NICHOLAS WARD,

Defendant-Appellant.

No. 18-50329

D.C. No. 2:17-cr-00645-GW-2

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Argued and Submitted October 18, 2019
Pasadena, California

Before: WARDLAW and HURWITZ, Circuit Judges, and BATAILLON,**
District Judge.

Brandon Ward appeals the district court's ruling to run his sentence on
Count II consecutively under 18 U.S.C. § 1028A and in accordance with United
States v. Gonzalez, 520 U.S. 1, 10 (1997). We agree that the district court has no

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

** The Honorable Joseph F. Bataillon, United States District Judge for
the District of Nebraska, sitting by designation.

discretion under § 1028A, and it must run the federal and state sentences consecutively. 18 U.S.C. § 1028A(b)(2). The Aggravated Identity Theft statute, 18 U.S.C. § 1028A(b)(2), requires a consecutive sentence. The district court was correct in this regard.

Ward also argues that his appellate waiver is not applicable. We decline to dismiss the appeal on the basis of the appeal waiver and instead affirm on the merits. *See United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

AFFIRMED.