

APR 11 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>CHRISTOPHER LEE MANN,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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Nos. 10-10161 & 10-10163

D.C. Nos. 2:08-cr-50102-GMS
3:99-cr-00146-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

In these consolidated appeals, Christopher Lee Mann appeals from the consecutive 44-month and 24-month sentences imposed following the revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

* 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).

Mann contends that the district court procedurally erred by relying on factors excluded from 18 U.S.C. § 3583(e). It is unclear from the record whether those factors served as the primary basis for the sentences imposed. *See United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006); *see also United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007). Accordingly, we vacate and remand for resentencing.

In light of this disposition, we decline to reach Mann's other arguments.

VACATED; REMANDED for resentencing.