

OCT 28 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>S. T. B.,</p> <p>Defendant - Appellant.</p>
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No. 10-30048

D.C. No. 4:09-cr-00113-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Appellant, a juvenile, appeals from the sentence imposed following his true-plea to an act of juvenile delinquency, pursuant to 18 U.S.C. § 5031, that constituted burglary, in violation of 18 U.S.C. § 1153(a), (b). Appellant was sentenced to official detention for 16 months and to supervision following his

* 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).

release from official detention until his nineteenth birthday. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Appellant has not shown that the district court abused its discretion by failing to consider the least restrictive environment and the rehabilitative needs of the appellant. *See United States v. Juvenile*, 347 F.3d 778, 787 (9th Cir. 2003).

The district court's determination that a period of detention was necessary to accomplish rehabilitation was not an abuse of discretion. Nor did the district court abuse its discretion by selecting a 16-month term, based on its determination that this term was necessary in order for appellant to participate in and complete the necessary rehabilitative programming.

Appellant's request that we remand to a different district court judge is denied as moot.

AFFIRMED.