

OCT 28 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEPHEN FARRELL,

Defendant - Appellant.

No. 10-30137

D.C. No. 6:08-cr-00023-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted October 19, 2010**

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

Stephen Farrell appeals from the ten-month sentence imposed upon revocation of supervised release. 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 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).

Farrell contends that the district court erred by considering impermissible factors at sentencing. The record shows that the district court did not rely on impermissible factors “as a primary basis for [the] revocation sentence.” *United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006).

Farrell also contends that the sentence imposed is substantively unreasonable. In light of the totality of the circumstances, the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.