

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 16 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-30073

Plaintiff-Appellee,

D.C. No. 6:04-cr-00017-BM-2

v.

MEMORANDUM\*

TYLER BENTON HUGHES,

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Montana  
Brian M. Morris, District Judge, Presiding

Submitted December 8, 2022\*\*

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Tyler Benton Hughes appeals from the district court's judgment and challenges the 18-month sentence imposed upon his fourth revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Hughes contends that the 18-month sentence is substantively unreasonable

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\* 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). Hughes's request for oral argument is, therefore, denied.

in light of a previous comment by a magistrate judge that he would receive a 12-month sentence for any new violations. We disagree. The magistrate judge's comment, made before Hughes committed three additional violations, did not bind the sentencing court. In light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Hughes's repeated breaches of the court's trust and his unwillingness to participate meaningfully in supervision, the district court did not abuse its discretion in imposing the above-Guidelines sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007) (purpose of a revocation sentence is to sanction the defendant's breach of the court's trust).

**AFFIRMED.**