NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 09-50419
Plaintiff - Appellee,	D.C. No. 2:08-cr-00607-PA
v.	
GREGORY BRYAN RUSH,	MEMORANDUM[*]
Defendant - Appellant.	

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted March 6, 2012[**]

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Gregory Bryan Rush appeals from the lifetime term of supervised release

imposed following his guilty-plea conviction for possession of child pornography,

in violation of 18 U.S.C. § 2252A(a)(5)(B). We have jurisdiction under 28 U.S.C.

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[*]   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).

§ 1291, and we vacate and remand.

The government contends that this appeal should be dismissed in light of the appeal waiver set forth in Rush's plea agreement. We decline to apply the appeal waiver because the language concerning the supervised release term is ambiguous, and so the waiver does not preclude our review. *See United States v. Cope*, 527 F.3d 944, 950-51 (9th Cir. 2008).

Rush contends that the district court procedurally erred by failing to provide an explanation for imposing a lifetime term of supervised release. Because the district court did not explain its decision to impose a lifetime term of supervised release, or its rationale for the lifetime supervised release term, we vacate the supervised release term and remand for further sentencing proceedings. *See United States v. Hammons*, 558 F.3d 1100, 1103-05 (9th Cir. 2009) (failure to provide any reasons for sentence imposed constituted reversible plain error).

In light of the foregoing, we do not reach Rush's contention that the lifetime term of supervised release is substantively unreasonable.

VACATED and REMANDED.