

FEB 23 2011

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NOT FOR PUBLICATION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.

CLIFFORD JAMES SCHUETT,

Defendant - Appellant.

No. 10-10243

D.C. No. 2:10-cr-00118-RLH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Clifford James Schuett appeals from the 42-month sentence imposed following his guilty-plea conviction for threatening to kill or cause damage by explosive, a violation of 18 U.S.C. § 844(e). 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).

Schuett contends that his sentence is substantively unreasonable given his criminal history and his motivation for committing the offense. In light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3553(a), particularly the need for the sentence to reflect the seriousness of the crime and to protect the public, the district court's sentence is not substantively unreasonable. *See United States v. Carty*, 520 F.3d 984, 993-94 (9th Cir. 2008) (en banc).

AFFIRMED.