

MAY 21 2012

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NOT FOR PUBLICATION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.

KAYLAN JAY BELL,

Defendant - Appellant.

No. 11-30146

D.C. No. 4:10-cr-00156-BLW

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief Judge, Presiding

Submitted May 15, 2012**

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

Kaylan Jay Bell appeals from the 42-month sentence imposed following his guilty-plea conviction for failure to register as a sex offender, in violation of 18 U.S.C. § 2250(a). 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). Accordingly, appellant's request for oral argument is denied.

Bell contends that the district court erred under *Tapia v. United States*, 131 S. Ct. 2382 (2011), by selecting his sentence on the basis of his need for rehabilitation. Because Bell did not object on this basis before the district court, we review for plain error. *See United States v. Tapia*, 665 F.3d 1059, 1063 (9th Cir. 2011). We find none. The court selected Bell’s sentence out of concern for protecting society, rather than to promote rehabilitation. Moreover, Bell has not established that any error affected his substantial rights. *See United States v. Waknine*, 543 F.3d 546, 554 (9th Cir. 2008) (to establish plain error, a defendant must demonstrate “a reasonable probability that he would have received a different sentence” if the district court had not erred).

AFFIRMED.