

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 1 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICAH JAMES GODFREY,

Defendant - Appellant.

No. 14-10246

D.C. No. 2:10-cr-00117-KJM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, District Judge, Presiding

Submitted August 25, 2015**

Before: McKEOWN, CLIFTON, and HURWITZ, Circuit Judges.

Micah James Godfrey appeals from the district court's judgment and challenges the 24-month sentence imposed upon revocation of supervised release.

We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

* 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).

Godfrey argues, and the government agrees, that remand is warranted because the district court improperly imposed the custodial sentence in order to promote Godfrey’s rehabilitation. We agree that the record reflects that the court imposed the length of the sentence to ensure that Godfrey would continue to receive mental health treatment in custody. We, therefore, vacate the sentence and remand for resentencing. *See Tapia v. United States*, 131 S. Ct. 2382, 2391 (2011); *United States v. Grant*, 664 F.3d 276, 282 (9th Cir. 2011) (rehabilitation “cannot be the reason” for imposing a term of imprisonment upon revocation of supervised release).

VACATED and REMANDED for resentencing.