

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

OCT 20 2015

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO CERVANTES-PERALTA,

Defendant - Appellant.

Nos. 14-10548  
14-10549

D.C. Nos. 2:14-cr-00035-JAD  
2:14-cr-00039-JAD

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Jennifer A. Dorsey, District Judge, Presiding

Submitted October 14, 2015\*\*

Before: SILVERMAN, BYBEE, and WATFORD, Circuit Judges.

In these consolidated appeals, Antonio Cervantes-Peralta appeals the 46-month custodial sentence and three-year term of supervised release imposed following his guilty-plea conviction for being a deported alien found unlawfully in the United States, in violation of 8 U.S.C. § 1326, and the 8-month sentence

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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).

imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Cervantes-Peralta contends that the three-year term of supervised release is substantively unreasonable in light of U.S.S.G. § 5D1.1(c). The district court did not abuse its discretion. *See United States v. Valdavinos-Torres*, 704 F.3d 679, 692 (9th Cir. 2012). The term is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including the need for deterrence. *See* U.S.S.G. § 5D1.1 cmt. n.5; *Valdavinos-Torres*, 704 F.3d at 692-93. Further, the court sufficiently explained the sentence. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

Cervantes-Peralta next contends that the aggregate custodial sentence is substantively unreasonable because the district court failed to impose fully concurrent sentences. We find no abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The Guidelines state that a revocation sentence should run consecutive to any sentence imposed for conduct that is the basis of the revocation, *see* U.S.S.G. § 7B1.3(f), and the court here made the sentences largely concurrent. The sentence is substantively reasonable. *See Gall*, 552 U.S. at 51.

**AFFIRMED.**