

SEP 25 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALAN CRAIG RICHARDS,

Defendant - Appellant.

No. 14-50547

D.C. No. 2:05-cr-00070-GHK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted September 21, 2015**

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

Alan Craig Richards appeals from the district court's judgment and challenges the 36-month sentence imposed upon revocation of supervised release.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Richards contends that the district court erred by failing to address his

* 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).

sentencing arguments and by improperly relying on the need to punish to impose sentence. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The record reflects that the court considered Richards' arguments before imposing sentence but simply found them unpersuasive. *See Rita v. United States*, 551 U.S. 338, 358-59 (2007). The record also reflects that the district court did not base the sentence primarily on the need to punish. *See United States v. Simtob*, 485 F.3d 1058, 1063 (9th Cir. 2007).

Richards next contends that his sentence is substantively unreasonable. The district court did not abuse its discretion in imposing Richards' sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 36-month sentence is substantively reasonable in light the of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Richards' breaches of the court's trust. *See Gall*, 552 U.S. at 51; *Simtob*, 485 F.3d at 1062-63 (at a revocation sentencing, the district court can sanction a violator for his breach of trust).

AFFIRMED.