

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 3 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10149

Plaintiff-Appellee,

D.C. No. 2:03-cr-00358-JAD

v.

MEMORANDUM*

JACK SEIBERT,

Defendant-Appellant.

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

Submitted November 27, 2018**

Before: CANBY, TASHIMA, and FRIEDLAND, Circuit Judges.

Jack Seibert appeals from the district court's judgment and challenges the 21-month custodial sentence and 12-month supervised release term imposed upon revocation of supervised release. 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 Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Seibert contends that the sentence is substantively unreasonable because the government's delay in prosecuting him foreclosed the possibility that he serve his revocation sentence concurrently with the sentence imposed for the state court conviction giving rise to the violation, and because the Bureau of Prisons is unable to meet his medical and neurological needs while he is in custody. He additionally contends that the supervision term is substantively unreasonable because he will serve one year of state parole upon release. The district court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Seibert's criminal history and his failure to be deterred by prior sentences. *See* U.S.S.G. § 7B1.3(f) & cmt. n.4; *Gall*, 552 U.S. at 51.

AFFIRMED.