

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 13 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-30227

Plaintiff-Appellee,

D.C. No. 9:16-cr-00033-DWM-1

v.

MEMORANDUM*

NICHOLAS DENNIS LAMERE, Jr.,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted May 6, 2020**

Before: BERZON, N.R. SMITH, and MILLER, Circuit Judges.

Nicholas Dennis Lamere, Jr. appeals from the district court's judgment and challenges the 10-month sentence imposed upon his second revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Lamere contends that the within-Guidelines sentence is substantively

* 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).

unreasonable. The district court did not abuse its discretion in light of the 18 U.S.C. § 3583(e) sentencing factors and totality of the circumstances, including Lamere's repeated violation of supervised release. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007). Moreover, contrary to Lamere's contention, the record reflects that the district court relied on only proper sentencing factors. *See Simtob*, 485 F.3d at 1062.

AFFIRMED.