

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DEC 16 2022

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

KENNETH M. BELL,

Defendant-Appellant.

No. 22-10163

D.C. No. 2:14-cr-00132-TLN-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted December 8, 2022**

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Kenneth M. Bell 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 affirm.

Bell contends that the district court failed to provide an adequate explanation

* 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).

for its decision to impose a sentence above the Guidelines range. We review for plain error, *see United States v. Miqbel*, 444 F.3d 1173, 1176 (9th Cir. 2006), and conclude that there is none. The record reflects that the district court sufficiently explained its decision to impose a 24-month sentence with no supervision to follow. Any error in the district court's failure to explain why its reasons for imposing this sentence specifically justified an upward variance from the Guidelines range is not plain because Bell has not shown that there is a reasonable probability that he would have received a different sentence had the district court done so. *See United States v. Christensen*, 732 F.3d 1094, 1102 (9th Cir. 2013).

AFFIRMED.