

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

MAY 26 2009

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFAEL ERNESTO GOMEZ-
RUBALLO, AKA Sapito,

Defendant - Appellant.

No. 08-50515

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

D.C. No. 2:08-cr-00001-SJO-1

MEMORANDUM *

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

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Rafael Ernesto Gomez-Ruballo appeals from the 24-month sentence imposed following the revocation of his supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

Gomez-Ruballo contends that the district court relied on an improper factor in sentencing him. This contention is belied by the record. *See* 18 U.S.C. §§ 3553(a), 3583(e); *United States v. Simtob*, 485 F.3d 1058, 1061-63 (9th Cir. 2007); *United States v. Miqbel*, 444 F.3d 1173, 1181-82 (9th Cir. 2006).

Gomez-Ruballo also contends that the district court did not adequately explain the reasons for imposing a sentence above the advisory Guidelines range. We conclude that the district court's explanation was sufficient to allow for meaningful review. *See Rita v. United States*, 127 S. Ct. 2456, 2468 (2007); *United States v. Leonard*, 483 F.3d 635, 637 (9th Cir. 2007); *Gall v. United States*, 128 S. Ct. 586, 596-97 (2007).

AFFIRMED.