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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>PHILLIP NASH,</p> <p>Defendant - Appellant.</p>
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No. 08-10282

D.C. No. 1:03-cr-00495-DAE-9

MEMORANDUM *

Appeal from the United States District Court
for the District of Hawaii
David A. Ezra, District Judge, Presiding

Submitted May 15, 2009**
Honolulu, Hawaii

Before: KOZINSKI, Chief Judge, BYBEE and CALLAHAN, Circuit Judges.

Phillip Nash seeks review of the revocation of his pre-trial release, alleging that deviations from the proper protocol in the testing of his urine specimen rendered unreliable the conclusion that the specimen showed cocaine use. Nash

* 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).

was subsequently sentenced and is serving a 160-month prison term.

We affirm the district court. Nash has failed to show that the record does not support the district court's determination that the alleged deviations from the protocol for taking and testing Nash's urine specimen did not undermine the findings that the specimen came from Nash and tested positive for cocaine use.

See United States v. Gebro, 948 F.2d 1118, 1121 (9th Cir. 1991).

This district court's revocation of pre-trial release is **AFFIRMED**.