

OCT 04 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD BUSHYHEAD,

Defendant - Appellant.

No. 10-30043

D.C. No. 1:98-cr-00095-JDS

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Jack D. Shanstrom, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Richard Bushyhead appeals from the 10-month sentence imposed upon revocation of his 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 9th Cir. R. 36-3.

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

Bushyhead contends that the district court procedurally erred at sentencing by failing (1) to consider the proper factors under 18 U.S.C. § 3553(a); and (2) to adequately explain the sentence. The record reflects that the district court considered the proper sentencing factors, adequately explained the sentence, and did not otherwise procedurally err. *See United States v. Carty*, 520 F.3d 984, 992–93 (9th Cir. 2008) (en banc); *see also* 18 U.S.C. § 3583(e).

Bushyhead also contends that his sentence is substantively unreasonable. In light of the totality of the circumstances, the sentence within the Guidelines range is substantively reasonable. *See Carty*, 520 F.3d at 993.

AFFIRMED.