

DEC 29 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NOT FOR PUBLICATION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.

MOISES RAMIREZ-ACOLTZI,

Defendant - Appellant.

No. 10-50135

D.C. No. 3:05-cr-00538-GT-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, District Judge, Presiding

Submitted December 14, 2010 **
San Francisco, California

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges.

Moises Ramirez-Acoltzi appeals the district court's judgment revoking his supervised release and the sentence imposed upon his revocation.

* 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).

Ramirez-Acolotzi contends that the supervised release revocation procedures set forth in 18 U.S.C. § 3583(e)(3) violate *Apprendi v. New Jersey*, 530 U.S. 466 (2000). As Ramirez-Acolotzi concedes, this contention is foreclosed by *United States v. Santana*, 526 F.3d 1257, 1262 (9th Cir. 2008), and he raises it only to preserve the issue for further review.

AFFIRMED.