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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NOT FOR PUBLICATION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>ENRIQUE ALDAY-LOPEZ,</p> <p>Defendant - Appellant.</p>

No. 10-10334

D.C. No. 2:05-cr-01359-FJM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frederick J. Martone, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Enrique Alday-Lopez appeals from the district court’s order revoking his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Alday-Lopez contends that the district court erred under *United States v. Miqbel*, 444 F.3d 1173 (9th Cir. 2006), by improperly considering the need for

* 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).

punishment. This contention is belied by the record.

Alday-Lopez also contends that the district court erred by providing an insufficiently compelling justification for the sentence. The district court did not commit procedural error. *See United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007) (noting that deterrence is one consideration under 18 U.S.C. § 3553(a)(2)(B) and holding that “[t]he seriousness of the offense underlying the revocation, though not a focal point of the inquiry, may be considered to a lesser degree as part of the criminal history of the violator”). Moreover, in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors applicable under 18 U.S.C. § 3583(e), the sentence is substantively reasonable. *See Miqbel*, 444 F.3d at 1181-82 (explaining the factors to consider under 18 U.S.C. § 3583(e)).

AFFIRMED.