

APR 11 2011

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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NOT FOR PUBLICATION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>CHRISTOPHER LEE MANN,</p> <p>Defendant - Appellant.</p>
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Nos. 10-10161 & 10-10163

D.C. Nos. 2:08-cr-50102-GMS
3:99-cr-00146-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

In these consolidated appeals, Christopher Lee Mann appeals from the consecutive 44-month and 24-month sentences imposed following the revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

* 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).

Mann contends that the district court procedurally erred by relying on factors excluded from 18 U.S.C. § 3583(e). It is unclear from the record whether those factors served as the primary basis for the sentences imposed. *See United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006); *see also United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007). Accordingly, we vacate and remand for resentencing.

In light of this disposition, we decline to reach Mann's other arguments.

VACATED; REMANDED for resentencing.