

APR 11 2011

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NOT FOR PUBLICATION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.

ALFRED PETERSON,

Defendant - Appellant.

No. 10-30260

D.C. No. 1:97-cr-00124-JDS

MEMORANDUM*

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

Submitted April 5, 2011**

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

Alfred Peterson appeals from the 13-month sentence imposed upon revocation of 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).

Peterson contends that the district court procedurally erred by failing to calculate the Guideline range. This contention is belied by the record.

Peterson also contends that the district court failed to consider the 18 U.S.C. § 3553(a) sentencing factors and failed to provide an adequate explanation of the sentence. Contrary to Peterson's contention, the record reflects that the district court considered the relevant § 3553(a) factors. *See* 18 U.S.C. § 3583(e); *see also United States v. Miqbel*, 444 F.3d 1173, 1181-82 (9th Cir. 2006). In addition, the district court considered Peterson's health issues, and the context and record make clear the district court's reasoning. *See Rita v. United States*, 551 U.S. 338, 359 (2007).

Moreover, in light of the totality of the circumstances and the factors applicable under 18 U.S.C. § 3583(e), the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.