

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NOT FOR PUBLICATION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.

LEE EDWARD MOORING,

Defendant - Appellant.

No. 10-50534

D.C. No. 2:09-cr-00891-DDP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted April 5, 2011**

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

Lee Edward Mooring appeals from the 12-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).

Mooring contends the district court procedurally erred by improperly considering his criminal history. Contrary to Mooring's contention, the district court did not plainly err. *See U.S. v. Simtob*, 485 F.3d 1059, 1062-63 (9th Cir. 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 Miqbel*, 444 F.3d at 1181-82 (explaining the factors to consider under 18 U.S.C. § 3583(e)).

AFFIRMED.