

APR 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT RICHARD EVANS,

Defendant - Appellant.

No. 10-50239

D.C. No. 3:03-cr-01110-MJL

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Submitted April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Robert Richard Evans appeals from the sentence imposed on re-sentencing.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Evans contends that, because the district court did not orally impose a term of supervised release at re-sentencing, this court should remand so that the district

* 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).

court can correct the written judgment to exclude supervised release from the written judgment. The record reflects that the district court did not address at re-sentencing those portions of the sentence that, like the three-year term of supervised release, were neither discussed nor disputed by the parties. *See United States vs. W.P.L.*, No. 10-30202, 2011 Westlaw 855859 at *1 n.1 (9th Cir. March 30, 2011) (explaining that, despite a variation between the oral and written sentencing pronouncements, there was no direct conflict between the two when viewed “in context”).

AFFIRMED.