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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NOT FOR PUBLICATION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>STEVEN MICHAEL HARRILL,</p> <p>Defendant - Appellant.</p>
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No. 10-10210

D.C. No. 1:07-cr-00091-LJO

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted May 24, 2011**

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

Steven Michael Harrill appeals from the 60-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Harrill first contends that the district court procedurally erred by failing to

* 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).

consider the sentencing factors set forth in 18 U.S.C. §§ 3553(a) and 3583(e). We review for plain error. *See United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009). The district court did not plainly err. It stated the correct guideline and statutory range, reviewed all of the evidence submitted, listened to mitigating arguments, considered the relevant § 3553(a) factors, and did not sanction Harrill solely or primarily for the underlying revocation offense. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc), *see also United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006) (the district court can sanction a violator for his breach of trust).

Harrill also contends that his sentence is substantively unreasonable. The record reflects that the sentence imposed is substantively reasonable in light of the totality of the circumstances and the sentencing factors set forth in 18 U.S.C. §§ 3553(a) and 3583(e). *See Gall v. United States*, 552 U.S. 38, 51-52 (2007); *see also* U.S.S.G. § 7B1.4 n.4.

Appellant's motion to expedite is denied as moot.

AFFIRMED.