

JUL 15 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NOT FOR PUBLICATION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.

DANIEL BRISENO-MORENO,

Defendant - Appellant.

No. 10-10530

D.C. No. 2:06-cr-00559-PGR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Paul G. Rosenblatt, District Judge, Presiding

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Daniel Briseno-Moreno appeals from the 18-month sentence imposed following the 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).

Briseno-Moreno contends that the district court procedurally erred by failing to consider the relevant 18 U.S.C. § 3553(a) sentencing factors, and by failing to address his mitigating arguments with respect to the fact that the sentence was greater than necessary due to the amount of time he had been incarcerated for the offense underlying his revocation. 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, as the record reflects that it considered the relevant § 3553(a) sentencing factors, as well as Briseno-Moreno's arguments in mitigation, but found the circumstances insufficient to warrant a sentence lower than the bottom of the Guidelines range. *See United States v. Carty*, 520 F.3d 984, 991-93, 995 (9th Cir. 2008) (en banc); *see also United States v. Stoterau*, 524 F.3d 988, 999 (9th Cir. 2008).

AFFIRMED.