

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 18 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SILVINO FLOREZ-VALERIO,

Defendant - Appellant.

No. 10-30342

D.C. No. 2:07-cr-00029-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted July 12, 2011**

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

Silvino Florez-Valerio appeals from the 24-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).

Florez-Valerio contends the district court procedurally erred by failing to adequately explain its decision that the sentence run consecutively to his sentence for the underlying crime that triggered the revocation of supervised release. The district court did not plainly err where the record reflects the judge considered the evidence and arguments presented by the parties, and adequately explained the sentence. *See United States v. Carter*, 560 F.3d 1107, 1117-19 (9th Cir. 2009).

Florez-Valerio also contends his sentence is substantively unreasonable. In light of the totality of the circumstances, the within-Guidelines sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.