

OCT 05 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NOT FOR PUBLICATION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.

RICHARD EUGENE LONEBEAR,

Defendant - Appellant.

No. 10-30357

D.C. No. 1:09-cr-00136-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, Chief Judge, Presiding

Submitted September 27, 2011**

Before: HAWKINS, SILVERMAN, and W. FLETCHER, Circuit Judges.

Richard Eugene Lonebear appeals from the lifetime term of supervised release imposed following his guilty-plea conviction for abusive sexual contact, in violation of 18 U.S.C. §§ 1153(a) and 2244(a)(5). We have jurisdiction pursuant to 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).

Lonebear contends that the district court's imposition of a lifetime term of supervised release constitutes cruel and unusual punishment under the Eighth Amendment, and is substantively unreasonable. The imposition of a lifetime term of supervised release is not unconstitutionally disproportionate given the circumstances of the case. *See United States v. Williams*, 636 F.3d 1229, 1232-1233 (9th Cir. 2011). The sentence is also substantively reasonable under the totality of the circumstances and in light of the sentencing factors set forth in 18 U.S.C. § 3553(a). *See United States v. Daniels*, 541 F.3d 915, 922-23 (9th Cir. 2008); *see also* U.S.S.G. § 5D1.2(b) (policy statement) (recommending the maximum term of supervised release if the offense of conviction is a sex offense).

AFFIRMED.