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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NOT FOR PUBLICATION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>ALEJANDRO ARTURO SCHOLZ,</p> <p>Defendant - Appellant.</p>

No. 10-30367

D.C. No. 6:10-cr-00010-DWM

MEMORANDUM*

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

Submitted November 21, 2011**

Before: TASHIMA, BERZON, and TALLMAN, Circuit Judges.

Alejandro Arturo Scholz appeals from the 210-month sentence imposed following his guilty-plea convictions for sexual exploitation of children, receipt of child pornography, and possession of child pornography, in violation of 18 U.S.C.

* 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).

§§ 2251(a) & (b), 2252(a)(2), and 2252A(a)(5)(B). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Scholz contends that his sentence is substantively unreasonable. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors, the top-of-the-Guidelines sentence is not substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

Contrary to Scholz's contention, the record reflects that the district court did not rely on his need for rehabilitation to impose or lengthen his period of confinement. *See Tapia v. United States*, 131 S. Ct. 2382, 2392 (2011) ("A court commits no error by discussing the opportunities for rehabilitation within prison or the benefits of specific treatment or training programs.").

AFFIRMED.