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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. WAYNE THOMAS LABORIN, Defendant - Appellant.	No. 11-10057 D.C. No. 4:06-cr-00036-DCB MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Wayne Thomas Laborin appeals from the 24-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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* 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).

Laborin first contends that the district court failed to consider his remorse and family support as mitigating factors. The record belies this contention.

Next, he alleges that the court sentenced him under the "misimpression" that the offense triggering his revocation was a felony. Although he was convicted of an offense that satisfied Grade C violation criteria, in his revocation proceedings Laborin admitted that the conduct underlying the conviction satisfied Grade A violation criteria. The district court's consideration of his conduct as a Grade A violation was not error. *See* U.S.S.G. § 7B1.1, cmt. n. 1.

Laborin finally contends that the court failed to consider the sentence to be imposed in light of the original Guideline sentence, which resulted in an aggregate sentence four months above the original Guideline range. We review for plain error, *see United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009), and find none. The sentence imposed was within the recommended Guidelines range, *see* U.S.S.G. § 7B1.4, and was substantively reasonable, *see Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.