

DEC 30 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NOT FOR PUBLICATION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.

ANTHONY D. SWANEGAN, a.k.a.
Anthony Swanegan, a.k.a. Anthony
Demetri Swanegan, a.k.a. Anthony
Demitus Swanegan,

Defendant - Appellant.

No. 11-50124

D.C. No. 3:08-cr-07053-IEG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Irma E. Gonzalez, Chief Judge, Presiding

Submitted December 19, 2011**

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

Anthony D. Swanegan appeals from the 24-month sentence imposed

* 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).

following the revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Swanegan contends that the district court procedurally erred by failing to explicitly calculate the Sentencing Guidelines range, and by improperly relying on punishment during sentencing. Swanegan has not shown that the district court's failure to expressly calculate the Guidelines range affected his substantial rights, particularly where the probation officer correctly calculated the Guidelines range and the district court provided sufficient reasons for the sentence. *See United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008). Further, taken in context, the district court's reference to "punishment" properly concerned sanctions for Swanegan's supervised release violations, not for the underlying state crimes. *See United States v. Simtob*, 485 F.3d 1058, 1063 (9th Cir. 2007).

AFFIRMED.