

JAN 06 2012

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NOT FOR PUBLICATION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.

STEPHEN E. FARRELL,

Defendant - Appellant.

No. 11-30074

D.C. No. 6:08-cr-00023-DWM

MEMORANDUM*

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

Submitted December 19, 2011**

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

Stephen E. Farrell appeals from the 24-month sentence imposed following 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).

Farrell contends that the district court erred under *United States v. Miqbel*, 444 F.3d 1173 (9th Cir. 2006), and *Tapia v. United States*, 131 S. Ct. 2382 (2011), by improperly basing his sentence on the need for punishment and rehabilitation. This contention is belied by the record.

Farrell also contends that his sentence is substantively unreasonable. The 24-month sentence is substantively reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3583(e) sentencing factors, particularly the need for the sentence imposed to protect the public and to sanction Farrell for his breach of trust. *See United States v. Simtob*, 485 F.3d 1058, 1063 (9th Cir. 2007).

AFFIRMED.