

JAN 24 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NOT FOR PUBLICATION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.

CURTIS BAKER, a.k.a. Middleman,

Defendant - Appellant.

No. 11-50070

D.C. No. 5:03-cr-00002-VAP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Curtis Baker appeals from the 24-month prison sentence and three-year term of supervised release imposed following the 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).

Baker contends that his sentence is substantively unreasonable because the district court impermissibly focused on the seriousness of his underlying drug conviction and did not consider his various mitigating factors. These contentions fail. The district court considered the proper factors set forth in 18 U.S.C. § 3583(e), and, under the totality of circumstances, the sentence is reasonable. *See United States v. Simtob*, 485 F.3d 1058, 1063 (9th Cir. 2007) (“[A] district court may properly look to and consider the conduct underlying the revocation as one of many acts contributing to the severity of the violator’s breach of trust so as not to preclude a full review of the violator’s history and the violator’s likelihood of repeating that history.”).

AFFIRMED.