

FEB 23 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TODD JEREMY RICE,

Defendant - Appellant.

No. 11-30249

D.C. No. 6:07-cr-00012-CCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Charles C. Lovell, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Todd Jeremy Rice appeals from the district court's judgment revoking his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Rice contends that the district court abused its discretion when it determined

* 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).

that he violated the terms of his supervised release. Specifically, Rice contends that there was insufficient evidence to show that he violated supervised release by (1) illegally possessing a controlled substance, and (2) failing to report for drug testing. The record reflects that the government proved the violations by a preponderance of the evidence. *See United States v. Turner*, 312 F.3d 1137, 1142 (9th Cir. 2002). Accordingly, the district court did not abuse its discretion when it revoked Rice's supervised release. *See United States v. Daniel*, 209 F.3d 1091, 1094 (9th Cir. 2000).

AFFIRMED.