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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. JUAN CARLOS VAUGHAN, Defendant - Appellant.	No. 11-50233 D.C. No. 3:06-cr-00097-BTM MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Juan Carlos Vaughan 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).

Vaughan contends that his statutory maximum sentence is substantively unreasonable. This is Vaughan's fifth supervised release revocation, which reflects a continued breach of the court's trust. The sentence is not unreasonable in light of the totality of the circumstances and the factors set forth in 18 U.S.C. § 3583(e). *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

In his reply brief, Vaughan raises for the first time the argument that the district court erred by departing upward from the Guidelines. He forfeited this argument by failing to raise it in his opening brief, and no exceptions to this rule apply. *See Koerner v. Grigas*, 328 F.3d 1039, 1048–49 (9th Cir. 2003).

AFFIRMED.