

OCT 30 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NOT FOR PUBLICATION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.

WILLIAM FITZGERALD JEROME,

Defendant - Appellant.

No. 11-30171

D.C. No. 3:09-cr-5844-RJB-1

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted October 12, 2012**
Seattle, Washington

Before: TASHIMA, M. SMITH, and CHRISTEN, Circuit Judges.

William Jerome appeals the district court's denial of his motion for reconsideration of his probation revocation. At the revocation hearing, the district

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2)(C).

court found that Jerome had committed four instances of domestic violence, which violated the conditions of his probation. After the hearing, Jerome received notice that a state agency investigating two of the four incidents declined to file charges, citing insufficient evidence. Jerome moved for reconsideration based on the agency's decision. The district court reviewed the new evidence and denied the motion. Jerome contends that the district court applied the wrong standard on reconsideration and erred in denying his motion to reconsider.

We review the district court's decision to deny the motion for reconsideration for abuse of discretion. *Herbst v. Cook*, 260 F.3d 1039, 1044 (9th Cir. 2001). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We need not decide whether the district court applied the wrong standard in deciding the motion for reconsideration because denial of the motion would be justified under any of the standards proposed by the parties. The district court considered Jerome's evidence and concluded that it would not have changed the court's ultimate decision. This conclusion was entirely reasonable: the state agency report dealt with *only two* of the four alleged instances of domestic abuse on which the revocation was based – those against Jerome's son. The report did not address the other two instances – those against Jerome's wife – that also provided a sufficient basis to revoke Jerome's probation.

The district court did not abuse its discretion in denying Jerome's motion for reconsideration. *See United States v. Hinkson*, 585 F.3d 1247, 1261 (9th Cir. 2009) (en banc).

AFFIRMED.