

JUN 24 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>DANIEL SALINAS-VARGAS,</p> <p>Defendant - Appellant.</p>

No. 12-50557

D.C. No. 3:06-cr-00639-WQH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Daniel Salinas-Vargas appeals from the district court’s judgment and challenges the eight-month sentence imposed following the revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Salinas-Vargas contends that the revocation sentence was substantively

* 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).

unreasonable because the district court failed to weigh properly the 18 U.S.C. § 3583(e) sentencing factors. The district court did not abuse its discretion in imposing Salinas-Vargas's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). In light of the totality of the circumstances and the section 3583(e) sentencing factors, the below-Guidelines sentence is substantively reasonable. *See id.*; *United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) (“The weight to be given the various factors in a particular case is for the discretion of the district court.”).

Salinas-Vargas also contends that the supervised release revocation procedure under section 3583 violates *Apprendi v. New Jersey*, 530 U.S. 466 (2000). As he concedes, this contention is foreclosed by *United States v. Santana*, 526 F.3d 1257, 1262 (9th Cir. 2008), and *United States v. Huerta-Pimental*, 445 F.3d 1220, 1223-25 (9th Cir. 2006).

AFFIRMED.