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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NOT FOR PUBLICATION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.