

AUG 01 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NOT FOR PUBLICATION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>SHANE KENNETH BRIZENDINE,</p> <p>Defendant - Appellant.</p>
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No. 12-30263

D.C. No. 1:10-cr-00289-EJL

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Shane Kenneth Brizendine appeals from the district court’s judgment and challenges the 140-month sentence imposed following his guilty-plea conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C.

§§ 841(a)(1), (b)(1)(A), and 846; and the 24-month, partially concurrent sentence

* 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).

imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Brizendine contends that his 152-month aggregate sentence is substantively unreasonable. He argues that the court should have imposed an aggregate sentence of no more than 140 months. The district court did not abuse its discretion in imposing Brizendine's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Brizendine's 140-month sentence is substantively reasonable in light of the 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances. *See id.* Moreover, the court did not abuse its discretion by ordering that 12 months of the revocation sentence be served consecutively to the 140-month sentence. *See* U.S.S.G. § 7B1.3(f).

Brizendine's motion to dismiss counsel and appoint new counsel received on June 26, 2013, is deemed filed and denied.

AFFIRMED.