

AUG 16 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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>BRIAN VINCE BOTZON,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 12-30351

D.C. No. 2:00-cr-00216-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Robert H. Whaley, District Judge, Presiding

Submitted August 14, 2013**

Before: SCHROEDER, GRABER, and PAEZ, Circuit Judges.

Brian Vince Botzon appeals from the district court’s judgment and challenges the 14-month sentence imposed upon revocation of supervised release.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Botzon contends that his sentence is substantively unreasonable. 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

court did not abuse its discretion in imposing Botzon's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of Botzon's criminal history, his breach of the court's trust, and the need to protect the public. *See* 18 U.S.C. § 3583(e); *United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007).

To the extent that Botzon contends that the district court placed improper weight on his original armed bank robbery offense, the record reflects that the court properly considered that offense as part of his criminal history, and did not impermissibly punish Botzon for the conduct related to his revocation offenses. *See Simtob*, 485 F.3d at 1062-63.

AFFIRMED.