

DEC 30 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEAJON RAYMOND ISAACS,

Defendant - Appellant.

No. 13-10086

D.C. No. 2:05-cr-00104-RCJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, Chief Judge, Presiding

Submitted December 17, 2013**

Before: GOODWIN, WALLACE, and GRABER, Circuit Judges.

Leajon Raymond Isaacs appeals from the district court's judgment and challenges the 36-month sentence and lifetime term of supervised release imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we vacate the sentence and remand for resentencing.

* 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).

Isaacs contends that the district court violated his due process rights by basing the sentence, at least in part, on unproven allegations in the revocation petition to which Isaacs did not admit. We vacate and remand for resentencing because it is not clear from the record the extent to which the district court's sentence was demonstrably based upon the unproven state and federal law violations, as opposed to the three admitted drug violations. *See United States v. Vanderwerfhorst*, 576 F.3d 929, 935-36 (9th Cir. 2009) (to establish due process violation at sentencing, defendant must show that his sentence was “demonstrably” based on information that lacked “some minimal indicium of reliability beyond mere allegation”) (internal quotation marks omitted).

VACATED and REMANDED.