

DEC 30 2013

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>TIMOTHY WAYNE EHLERS,</p> <p>Defendant - Appellant.</p>

No. 13-30179

D.C. No. 2:13-cr-00034-RSM

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted December 17, 2013**

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

Timothy Wayne Ehlers appeals from the district court’s judgment and challenges the condition of supervised release requiring him to participate in a mental health program. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Ehlers contends that the district court abused its discretion and imposed a substantively unreasonable supervised release condition because he has not been diagnosed with a mental illness, the only evidence regarding his mental health was anecdotal, his offense lacked “any mental health component,” and his substance abuse problem provides an alternate explanation for his behavior. We disagree. The record supports the district court’s conclusion that Ehlers may benefit from a mental health program. The condition is reasonably related to the goals of protecting the public and providing Ehlers with necessary treatment, involves no greater deprivation of liberty than is reasonably necessary to achieve those goals, and is consistent with the policy statement in U.S.S.G. § 5D1.3(d)(5). *See* 18 U.S.C. § 3583(d); *United States v. Lopez*, 258 F.3d 1053, 1056-57 (9th Cir. 2001).

AFFIRMED.