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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NOT FOR PUBLICATION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>ROGELIO ACEVEDO-BECERRA,</p> <p>Defendant - Appellant.</p>

No. 13-50276

D.C. No. 3:10-cr-04559-IEG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Irma E. Gonzalez, District Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O’SANNLAIN, and FERNANDEZ, Circuit Judges.

Rogelio Acevedo-Becerra appeals from the district court’s judgment and challenges the seven-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Acevedo-Becerra contends that the district court erred by failing to consider

* 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).

all of the 18 U.S.C. § 3583(e) sentencing factors and to respond adequately to his arguments in mitigation. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The record reflects that the court considered Acevedo-Becerra's arguments in mitigation, and its explanation of the sentence imposed was adequate. *See United States v. Carty*, 520 F.3d 984, 992-93, 995 (9th Cir. 2008) (en banc). Moreover, the below-Guidelines sentence is substantively reasonable. *See* 18 U.S.C. § 3583(e); *United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007).

Acevedo-Becerra also contends that the imposition of a custodial sentence upon revocation of supervised release violates *Apprendi v. New Jersey*, 530 U.S. 466 (2000). As he concedes, this contention is foreclosed. *See United States v. Santana*, 526 F.3d 1257, 1262 (9th Cir. 2008).

AFFIRMED.