

MAR 13 2014

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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NOT FOR PUBLICATION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.

MARK STEVEN ELK SHOULDER,

Defendant - Appellant.

No. 13-30147

D.C. No. 1:09-cr-00023-JDS

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Jack D. Shanstrom, District Judge, Presiding

Submitted March 10, 2014\*\*

Before: PREGERSON, LEAVY, and MURGUIA, Circuit Judges.

Mark Steven Elk Shoulder appeals from the district court's judgment and challenges the 24-month sentence imposed upon revocation of supervised release.

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

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\* 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).

Elk Shoulder contends that his sentence is substantively unreasonable because it is greater than necessary to accomplish the goals of sentencing. We review for abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Although the 24-month sentence represents a significant upward variance from the Guidelines range, we cannot say that the district court abused its discretion. The sentence is substantively reasonable in light of Elk Shoulder's criminal history and breach of trust, including his repeated supervised release violations. *See* 18 U.S.C. § 3583(e); *see United States v. Miquel*, 444 F.3d 1173, 1181-82 (9th Cir. 2006).

**AFFIRMED.**