

APR 11 2014

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HEATHER WISBY STEWART,

Defendant - Appellant.

No. 13-30270

D.C. No. 4:09-cr-00096-DLC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Dana L. Christensen, Chief Judge, Presiding

Submitted April 7, 2014\*\*

Before: TASHIMA, GRABER, and IKUTA, Circuit Judges.

Heather Wisby Stewart appeals from the district court's judgment and challenges the 15-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).

Stewart contends that her sentence is substantively unreasonable because it is greater than necessary and because the district court placed an undue emphasis on the circumstances of her arrest. The district court did not abuse its discretion in imposing Stewart's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 15-month sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Stewart's breach of the court's trust and the need to deter future criminal conduct. *See id.*; *United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006).

We reject Stewart's contention that the district court improperly considered a post-arrest statement that was elicited from her in violation of *Miranda v. Arizona*, 384 U.S. 436 (1996). The record reflects that the district court expressly disregarded the statement in fashioning the sentence.

**AFFIRMED.**