

JUN 27 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NOT FOR PUBLICATION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.

JERRY DANNY HANKS,

Defendant - Appellant.

No. 13-10303

D.C. No. 2:08-cr-01180-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Ronald S.W. Lew, District Judge, Presiding**

Submitted June 25, 2014***

Before: HAWKINS, TALLMAN, and NGUYEN, Circuit Judges.

Jerry Danny Hanks appeals from the 24-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Ronald S.W. Lew, Senior United States District Judge for the Central District of California, sitting by designation.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and we affirm.

Hanks contends that the district court procedurally erred by imposing the maximum term of imprisonment to punish him for his underlying crime and his multiple violations of supervised release. He also argues that the court failed to consider the mitigating circumstance of his hip condition, and did not adequately explain the above-Guideline sentence. 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 district court was aware of the Guidelines range and Hank's mitigating arguments, and did not impose sentence to punish Hanks, but rather on the basis of Hank's repeated breaches of the court's trust. *See United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007) (at a revocation sentencing, the court may sanction the violator for his breach of the court's trust). Furthermore, the court adequately explained the sentence. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

AFFIRMED.