

SEP 30 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NOT FOR PUBLICATION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.

ISAI JULIAN CONSTANTINO-
ORNELAS,

Defendant - Appellant.

No. 14-50108

D.C. No. 3:11-cr-02897-DMS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted September 23, 2014**

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

Isai Julian Constantino-Ornelas appeals from the district court's judgment and challenges the nine-month sentence imposed upon revocation of supervised release. 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).

Constantino-Ornelas contends that the district court procedurally erred by failing to explain the sentence adequately and to address his arguments in mitigation. We review for plain error, *United States v. Miqbel*, 444 F.3d 1173, 1176 (9th Cir. 2006), and find none. Even if we were to review de novo, we would affirm the district court. The record reflects that the court took Constantino-Ornelas's sentencing arguments into consideration and adequately explained the sentence. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc). The reasons for imposing the sentence, including the seriousness of Constantino-Ornelas's breach of trust and the need to deter, are apparent from the record. *See id.* (adequate explanation may be inferred from the record as a whole).

Constantino-Ornelas next contends that the sentence is substantively unreasonable in light of his alleged motive for the violation and his asserted low risk of recidivism. The district court did not abuse its discretion in imposing Constantino-Ornelas's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Constantino-Ornelas's immigration history. *See* U.S.S.G. § 7B1.3(f); *Gall*, 552 U.S. at 51.

AFFIRMED.