

JUN 30 2015

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NOT FOR PUBLICATION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.

ROBERT LEWIS BURSHIA,

Defendant - Appellant.

No. 14-30122

D.C. No. 4:13-cr-00093-BMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted June 22, 2015**

Before: HAWKINS, GRABER, and W. FLETCHER, Circuit Judges.

Robert Lewis Burshia appeals from the district court judgment and challenges the 144-month sentence imposed following his jury-trial conviction for three counts of assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153(a), 113(a)(3), and one count of assault resulting in serious bodily injury, in

* 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).

violation of 18 U.S.C. §§ 1153(a), 113(a)(6). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Burshia contends that the district court procedurally erred by failing to explain the sentence adequately, including why it imposed a consecutive 24-month sentence on the serious bodily injury count. 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 considered the relevant 18 U.S.C. § 3553(a) sentencing factors, including Burshia's substance abuse problems, and sufficiently explained the basis for the sentence.

Burshia also contends that his 144-month sentence is substantively unreasonable because his need for rehabilitation outside of prison justifies a shorter sentence. The district court did not abuse its discretion. *See United States v. Overton*, 573 F.3d 679, 700 (9th Cir. 2009). The within-Guidelines sentence is substantively reasonable in light of the section 3553(a) factors and the totality of the circumstances, including the seriousness of the offense. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.