

JAN 28 2016

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NOT FOR PUBLICATION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.

DAVID ESCOBAR,

Defendant - Appellant.

No. 15-10098

D.C. No. 1:13-cr-00379-LJO

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted January 20, 2016**

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

David Escobar appeals from the district court's judgment and challenges the 36-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Escobar argues that the district court procedurally erred by failing to

* 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).

consider his mitigating arguments and statements at allocution, and instead imposing a predetermined sentence on the basis of a prior promise. Because Escobar did not raise this objection before the district court, we review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and find none. The court properly considered the need to sanction Escobar for violating the terms of supervision and breaching the court's trust. *See United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006). Further, the record reflects that the court reviewed Escobar's sentencing materials, listened to his mitigating arguments and statements at allocution, and considered the 18 U.S.C. § 3583(e) sentencing factors.

AFFIRMED.