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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES DE DIOS MARTINEZ,

Defendant - Appellant.

No. 15-50265

D.C. No. 3:11-cr-04295-JAH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
John A. Houston, District Judge, Presiding

Submitted February 24, 2016**

Before: LEAVY, FERNANDEZ, and RAWLINSON, Circuit Judges.

James De Dios Martinez appeals from the district court's judgment and challenges the 12-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).

Martinez contends that the district court procedurally erred by improperly relying on the need to punish and the need to promote respect for the law when fashioning his sentence. We disagree. The record reflects that the district court was primarily concerned with Martinez's poor history on supervision and breach of the court's trust, and did not base the sentence on any improper factors. *See United States v. Simtob*, 485 F.3d 1058, 1063 (9th Cir. 2007). Moreover, the 12-month sentence, two months above the high end of the advisory Guidelines range, is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.