

AUG 22 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NOT FOR PUBLICATION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.

ALFREDO RAMIREZ-ESQUIVEL,

Defendant-Appellant.

No. 16-50118

D.C. No. 3:10-cr-03659-JAH

MEMORANDUM*

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

Submitted August 16, 2016**

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Alfredo Ramirez-Esquivel appeals from the district court's judgment and challenges the 12-month sentence imposed following his third 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 Ninth Circuit Rule 36-3.

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

Ramirez-Esquivel contends that the district court procedurally erred by imposing an above-Guidelines sentence without explaining why a within-Guidelines sentence was insufficient or acknowledging that the sentence exceeded the Guidelines range. He also argues that the court procedurally erred by failing to address his arguments that his anxiety prevented him from complying with his supervised release conditions and that a short sentence was warranted so that he could accept a job promotion that had been offered to him. Ramirez-Esquivel's arguments are without merit. The district court correctly calculated the Guidelines range as 3-9 months, but explained that a 12-month sentence was warranted, despite the mitigating arguments asserted by Ramirez-Esquivel, in light of the severity of Ramirez-Esquivel's breach of the court's trust. The court adequately responded to Ramirez-Esquivel's mitigating arguments and sufficiently explained the above-Guidelines sentence. *See Rita v. United States*, 551 U.S. 338, 357-58 (2007).

AFFIRMED.