

OCT 31 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NOT FOR PUBLICATION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.

ANTONIO DE JESUS MAGANA,

Defendant-Appellant.

No. 16-30055

D.C. No. 2:12-cr-02044-RMP

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Rosanna Malouf Peterson, District Judge, Presiding

Submitted October 25, 2016**

Before: LEAVY, SILVERMAN, and GRABER, Circuit Judges.

Antonio de Jesus Magana appeals from the district court's judgment and challenges the revocation of supervised release and the 10-month sentence imposed upon revocation. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for further proceedings.

* 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).

Magana contends that the district court did not have a sufficient basis to revoke supervised release because he did not formally admit the violations. The record reflects that, though Magana admitted to general “wrongdoing,” he never specifically admitted to any of the five alleged violations. We, therefore, vacate the district court’s judgment revoking supervised release. Upon remand, the district court shall take Magana’s formal admission to the violations or, if Magana denies the violations, shall take evidence and make a finding whether Magana violated the conditions of supervised release. *See* 18 U.S.C. § 3583(e)(3); Fed. R. Crim. P. 32.1(b)(2).

In light of this disposition, we do not reach Magana’s other claims of error.

VACATED and REMANDED.