

DEC 21 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NOT FOR PUBLICATION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.

DANIEL ALAN BROWN,

Defendant-Appellant.

No. 15-30324

D.C. No. 3:14-cr-00117-SLG

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Sharon L. Gleason, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Daniel Alan Brown appeals from the district court's judgment and challenges the 180-month sentence and lifetime of supervised release imposed following his guilty-plea conviction for distribution of child pornography, in

* 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).

violation of 18 U.S.C. § 2252(a)(2) and (b)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Brown contends that the district court procedurally erred by considering erroneous facts and by insufficiently explaining the sentence. The record reflects that, even if the district court misstated the duration of Brown's illegal activity, that characterization did not affect Brown's substantial rights. *See United States v. Dallman*, 533 F.3d 755, 761-62 (9th Cir. 2008). The court carefully explained the sentence in light of the 18 U.S.C. § 3553(a) factors and Brown's arguments.

Brown next contends that his sentence is substantively unreasonable in light of mitigating factors such as his lack of prior criminal history, age, education, his cooperation with law enforcement and the likelihood that he will re-offend. The court did not abuse its discretion in imposing Brown's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The below- Guidelines sentence is substantively reasonable in light of the section 3553(a) sentencing factors and the totality of the circumstances, including Brown's admission that his independent attempts to curtail his interest in child pornography over a period of many years were unsuccessful. *See Gall*, 552 U.S. at 51.

AFFIRMED.