

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 15-50505

Plaintiff-Appellee,

D.C. No. 3:09-cr-01980-LAB

v.

MEMORANDUM*

JOSE HUGO MENDOZA,

Defendant-Appellant.

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

Submitted December 14, 2016**

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

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

Mendoza contends that the district court erred by improperly basing the

* 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).

sentence on the need to punish him for the underlying offense and the court's belief that Mendoza's sentence for that offense was too low. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and hold there is none. The record reflects that the district court based its decision on only proper 18 U.S.C. § 3583(e) sentencing factors, including the need for deterrence, Mendoza's repeated breaches of the court's trust, and the need to protect the public. *See United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007). Moreover, Mendoza's sentence is substantively reasonable in light of the section 3583(e) factors and the totality of the circumstances, including his criminal history and prior violations of supervised release. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) ("The weight to be given the various factors in a particular case is for the discretion of the district court.").

AFFIRMED.