

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 23 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-10092

Plaintiff-Appellee,

D.C. No.

v.

1:13-cr-00008-RVM-1

RICHARD SULLIVAN BENAVENTE,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of the Northern Mariana Islands
Ramona V. Manglona, Chief Judge, Presiding

Submitted October 12, 2017**
U. of Hawaii Manoa

Before: SCHROEDER, D.W. NELSON, and McKEOWN, Circuit Judges.

Richard S. Benavente appeals the substantive reasonableness of his prison sentence for Sexual Exploitation of Children in violation of 18 U.S.C. § 2251(a) and (e), and the application of a two-level sentencing enhancement for obstruction of justice under U.S.S.G. § 3C1.1. We have jurisdiction under 28 U.S.C. § 1291.

* 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).

We affirm.

The district court did not abuse its discretion in imposing a two-level sentencing enhancement. *See United States v. Gasca-Ruiz*, 852 F.3d 1167, 1169-70 (9th Cir. 2017) (en banc). The court concluded that Benavente obstructed justice by making false statements to the government and violating his plea agreement by testifying falsely at the trial of Raymond Roberto. “[V]iolation of a plea bargain warrants a sentence enhancement for obstruction of justice.” *United States v. Acuna*, 9 F.3d 1442, 1446 (9th Cir. 1993).

Nor was Benavente’s sentence substantively unreasonable. Benavente’s 360-month sentence was within the guidelines range of 292 to 365 months. Within-guidelines sentences are presumed reasonable. *Rita v. United States*, 551 U.S. 338, 341 (2007). The court sentenced Benavente to the statutory maximum after explaining that Benavente had enticed or coerced at least two minor girls into sexual activity repeatedly in exchange for drugs, and had violated his plea agreement.

AFFIRMED.