

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50044

Plaintiff-Appellee,

D.C. No. 3:08-cr-04127-WQH

v.

MEMORANDUM*

CARLOS U. LOBO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted January 16, 2018**

Before: REINHARDT, TROTT, and HURWITZ, Circuit Judges.

Carlos U. Lobo appeals from the district court's judgment and challenges the 12-month consecutive sentence imposed upon revocation of supervised release.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Lobo contends that the district court procedurally erred by failing to explain adequately why it rejected his mitigating arguments. The district court did not

* 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).

plainly err. *See United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010). The record reflects that the district court considered Lobo's mitigating arguments, but concluded that a consecutive sentence was warranted in light of the need to sanction Lobo's breach of the district court's trust and Lobo's history and characteristics. This explanation was sufficient. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc). Moreover, Lobo has not shown a reasonable probability that the sentence would have been different if the district court had provided further explanation. *See United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008).

AFFIRMED.