

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 13 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-30164

Plaintiff-Appellee,

D.C. No. 1:09-cr-00218-BLW

v.

MEMORANDUM*

DANIEL LEE RATHMAN,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief Judge, Presiding

Submitted April 11, 2018**

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

Daniel Lee Rathman appeals from the district court's judgment and challenges the 14-month sentence imposed upon his third revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Rathman contends that the sentence is substantively unreasonable in light of

* 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).

the mitigating arguments he made in the district court in support of his request for a six-month sentence. The court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) sentencing factors and the totality of the circumstances, including Rathman's repeated violations of supervised release. *See Gall*, 552 U.S. at 51; *see also United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007). Moreover, contrary to Rathman's claim, the record reflects that the district court considered his arguments for a below-Guidelines sentence but found them unpersuasive. *See Rita v. United States*, 551 U.S. 338, 358 (2007).

AFFIRMED.