

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 28 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-50002

Plaintiff-Appellee,

D.C. No. 3:18-cr-07170-DMS-1

v.

MEMORANDUM*

JOSE ORTIZ-BARRAGAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted May 21, 2019**

Before: THOMAS, Chief Judge, FRIEDLAND and BENNETT, Circuit Judges.

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

Ortiz-Barragan contends that the district court procedurally erred by failing

* 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).

to address his non-frivolous mitigation arguments in support of a concurrent sentence. We review for plain error, *see United States v. Valencia-Barragan*, 608 F.3d 1103, 1108 (9th Cir. 2010), and conclude that there is none. The record reflects that the district court considered Ortiz-Barragan's arguments, but believed that a consecutive sentence was warranted in light of Ortiz-Barragan's immigration history and significant breach of the court's trust, as well as the need to deter. The court's explanation was sufficient. *See Rita v. United States*, 551 U.S. 338, 356-59 (2007). Contrary to Ortiz-Barragan's contention, the court was not required to address specifically each of his mitigating arguments. *See United States v. Perez-Perez*, 512 F.3d 514, 516 (9th Cir. 2008).

AFFIRMED.