

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-30192

Plaintiff-Appellee,

D.C. No. 1:09-cr-00068-SPW-1

v.

MEMORANDUM*

COLLINS RAY RUSSELL,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Collins Ray Russell appeals from the district court's judgment and challenges the 30-month sentence imposed upon revocation of his supervised release. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Russell's counsel has filed a brief stating that there are no grounds for relief, along with a motion to

* 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).

withdraw as counsel of record. Russell has filed a pro se supplemental brief. No answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal. Contrary to Russell's argument in his pro se supplemental brief, the 30-month sentence was authorized by the applicable statute and the Guidelines. In addition, the sentence is substantively reasonable in light of the 18 U.S.C. § 3583(e) factors and the totality of the circumstances, including Russell's breach of the court's trust, the need to protect the public, and the similarity between the original offense and the conduct underlying the revocation. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007). The record does not support Russell's remaining pro se arguments.

Counsel's motion to withdraw is **GRANTED**.

AFFIRMED.