

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 26 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-10224

Plaintiff-Appellee,

D.C. No.

v.

2:19-cr-00014-MMD-NJK-1

DEREK ALLEN STOKES,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted January 19, 2022**

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

Derek Allen Stokes appeals from the district court's judgment revoking his supervised release for the second time and imposing an eight-month sentence. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Stokes contends that, given the allegedly minor nature of his violations and

* 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).

his rehabilitative efforts, the district court should have continued him on supervision rather than imposing a custodial sentence. Given Stokes's multiple admitted violations, the district court did not abuse its discretion in electing to revoke, rather than modify, his term of supervision. *See* 18 U.S.C. § 3583(e); *United States v. Perez*, 526 F.3d 543, 547 (9th Cir. 2008). Moreover, the within-Guidelines sentence is substantively reasonable in light of the § 3583(e) sentencing factors and the totality of the circumstances, including Stokes's repeated breaches of the court's trust and his unwillingness to participate meaningfully in substance abuse treatment as required by the terms of his supervision. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007) (purpose of a revocation sentence is to sanction the defendant's breach of the court's trust).

AFFIRMED.