

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 26 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-30129

Plaintiff-Appellee,

D.C. No. 2:11-cr-00024-WFN-1

v.

ANTHONY J. MATHIAS,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, District Judge, Presiding

Submitted April 17, 2023**

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

Anthony J. Mathias appeals from the district court's judgment and challenges the 24-month sentence imposed upon the fourth revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Mathias contends that the 24-month, statutory maximum sentence is

* 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).

substantively unreasonable because it is significantly above his Guidelines range and his violations were driven by his drug addiction. The district 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 applicable 18 U.S.C. § 3553(a) sentencing factors and the totality of the circumstances, including Mathias's repeated poor performance on supervision and the need to protect the public. *See* 18 U.S.C. § 3583(e); *see also Gall*, 552 U.S. at 51; *United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009) ("The weight to be given the various factors in a particular case is for the discretion of the district court.").

AFFIRMED.