

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 22 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

FELIX ARROYO,

Defendant-Appellant.

Nos. 22-10302

22-10303

D.C. Nos. 3:17-cr-00277-WHO-1

3:13-cr-00606-WHO-1

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Orrick, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

In these consolidated appeals, Felix Arroyo appeals from the district court's judgment entered in both of his criminal cases imposing a single 24-month sentence upon the second revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Arroyo contends that the district court failed to explain the sentence adequately and relied on the impermissible sentencing factor of “just punishment.” These claims fail.¹ The court explained that an above-Guidelines sentence was warranted because, despite the “enormous number of opportunities” provided to Arroyo during his lengthy history before the court, he continued to violate the terms of his supervised release in numerous ways. The court further indicated that a sentence at the statutory maximum, with no supervision to follow, was appropriate because supervision had not proven beneficial to Arroyo. This explanation is sufficient to allow for meaningful appellate review and satisfies 18 U.S.C. § 3553(c)(2). *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

The court’s sentencing explanation also belies Arroyo’s claim that the court impermissibly relied on a prohibited sentencing factor. Viewed in context of the full revocation hearing, the court’s brief reference to “further punishment” reflected its concern about finding an appropriate sanction for Arroyo’s repeated breaches of the court’s trust, which is the primary purpose of a revocation sentence. *See United States v. Miquel*, 444 F.3d 1173, 1182 (9th Cir. 2006).

AFFIRMED.

¹ We do not reach the parties’ dispute over the appropriate standard of review because Arroyo’s claims fail under any standard.