

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 24 2026

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LONNIE BURDETTE PORTER,

Defendant - Appellant.

No. 26-1704

D.C. No.

1:21-cr-00016-SPW-1

MEMORANDUM*

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

Submitted September 22, 2026**

Before: OWENS, COLLINS, and SUNG, Circuit Judges.

Lonnie Burdette Porter appeals from the district court's judgment and challenges the 7-month sentence imposed following the second revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Porter admitted one violation of supervised release and was found to have

* 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).

committed three others. Porter contends that the district court erroneously found one of the violations—commission of a new criminal offense—and that the error affected his sentence because it resulted in an increase in the Guidelines range from 5-11 months to 8-14 months. This claim fails because the district court applied the lower Guidelines range of 5-11 months notwithstanding its finding of the new offense violation. Moreover, the evidence was sufficient to show, by a preponderance of the evidence, that Porter killed or inflicted cruelty to an animal in violation of Mont. Code Ann. § 45-8-217(1). *See United States v. King*, 608 F.3d 1122, 1129 (9th Cir. 2010) (the evidence is sufficient to revoke supervised release if, viewing the evidence in the light most favorable to the government, any rational trier of fact could have found the elements of the violation by a preponderance of the evidence). To the extent Porter suggests that the court placed special emphasis on the new offense violation in selecting the 7-month sentence, the record belies his claim.

AFFIRMED.