

NOT FOR PUBLICATION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.

RILEY NEAL O'BRIEN,

Defendant - Appellant.

No. 26-638

D.C. No.

3:24-cr-00211-DCN-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
David C. Nye, District Judge, Presiding

Submitted September 22, 2026**

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

Riley Neal O'Brien appeals from the district court's judgment and challenges the 100-month sentence imposed following his guilty-plea conviction for possession of child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B). 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).

O'Brien first argues that the district court procedurally erred by failing to provide sufficient reasons for rejecting his argument that his post-offense rehabilitation in the years before sentencing supported a probationary sentence. We review for plain error, *see United States v. Bradford*, 148 F.4th 699, 708 (9th Cir. 2025), and conclude there is none. The court heard extensive argument from defense counsel, as well as statements from O'Brien and his wife. It acknowledged O'Brien's mitigating arguments and explained that, despite those arguments, the 18 U.S.C. § 3553(a) sentencing factors—particularly the seriousness of the offense—supported a period of “significant incarceration” rather than probation. This explanation for O'Brien's sentence was sufficient. *See Rita v. United States*, 551 U.S. 338, 358 (2007). Even if it were not, O'Brien has not shown a “reasonable probability” he would have received a shorter sentence had the court said more. *See United States v. Dallman*, 533 F.3d 755, 762 (9th Cir. 2008).

O'Brien next argues that his sentence is substantively unreasonable because it does not account for the full extent of his rehabilitation or the need to avoid sentencing disparities. We conclude the court did not abuse its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The 100-month, below-Guidelines sentence is substantively reasonable under the § 3553(a) factors and the totality of the circumstances. *See id.*

AFFIRMED.