

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 23 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOANNE MENEELY, aka Tawnjai
Brooks,

Defendant - Appellant.

No. 07-50288

D.C. No. CR-03-01770-NAJ-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Napoleon A. Jones, District Judge, Presiding

Submitted January 11, 2008**
Pasadena, California

Before: FARRIS and M. SMITH, Circuit Judges, and SANDOVAL,** District
Judge.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Brian E. Sandoval, United States District Judge for the
District of Nevada, sitting by designation.

Joanne Meneely appeals from the district court's judgment revoking her term of supervised release and sentencing her to an eleven-month term of imprisonment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

We address Meneely's jurisdictional argument first. *See Kyocera Corp. v. Prudential-Bache Trade Servs., Inc.*, 341 F.3d 987, 995 n. 12 (9th Cir. 2003) (en banc). The district court had jurisdiction over Meneely's revocation proceedings. Meneely was arrested during her supervised release term, which was tolled when she entered fugitive status. *See United States v. Murguia-Oliveros*, 421 F.3d 951, 953-55 (9th Cir. 2005); 18 U.S.C. §§ 3606, 3583(e)(3). Meneely's argument that she was not a fugitive is foreclosed by *Murguia-Oliveros*, which held that a failure to comply with the terms of supervised release triggers fugitive status. *Id.*; *see also United States v. Delamora*, 451 F.3d 977, 980 (9th Cir. 2006). Meneely violated the terms of her supervised release by failing to report to probation within seventy-two hours of her release from custody.

Meneely had actual notice of her seventy-two hour reporting duty. She received an oral advisement to report to probation from the sentencing court and written notice of the seventy-two hour reporting requirement from a Federal Bureau of Prisons "Notice of Release and Arrival" form, which she signed. *See United States v. Ortega-Brito*, 311 F.3d 1136, 1139 (9th Cir. 2002).

Meneely's contention that 18 U.S.C. § 3583(e)(3) violates the Sixth Amendment is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220 (9th Cir. 2006), which remains good law after *Cunningham v. California*, 127 S. Ct. 856 (2007).

AFFIRMED.