

FILED

OCT 01 2007

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LATWAN WILSON,

Defendant - Appellant.

No. 06-50711

D.C. No. CR-98-00852-DSF-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted September 24, 2007**

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Latwan Wilson appeals from the sentence imposed upon revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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

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

Wilson contends that the case must be remanded for resentencing because the district court was unaware that it had discretion to run the sentence concurrently to the term imposed by the Eastern District of Wisconsin under 18 U.S.C. § 3584(a).

While the district court did not explicitly state that it was exercising its discretion to run the sentence consecutive pursuant to 18 U.S.C. § 3584(a), the record is devoid of any evidence that the district court erroneously believed that it lacked such discretion. We have previously held that 18 U.S.C. § 3584(a) does not require the district court to justify its choice between concurrent and consecutive sentences, but the court must justify the sentence as a whole with reference to the factors listed in 18 U.S.C. § 3553(a). *See United States v. Fifield*, 432 F.3d 1056, 1066 (9th Cir. 2005). The district court properly did so here. *See id.*

AFFIRMED.