

MAY 23 2008

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

MIGUEL GARCIA-QUINTERO,

Defendant - Appellant.

No. 07-50061

D.C. No. CR-03-02161-H

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Submitted May 20, 2008**

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Miguel Garcia-Quintero appeals from the district court's order denying both his motion to correct a judgment imposed following revocation of supervised release and his motion to withdraw his admissions of violating terms of 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 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).

In the revocation proceedings below, Garcia-Quintero admitted to violating two conditions of supervised release: (1) that he not commit a federal, state, or local offense; and (2) that he not illegally reenter the United States. Following revocation of supervised release, he filed a motion to correct the judgment and motions to withdraw his admission to violating the first condition of his supervised release on the grounds that he did not receive adequate notice of the condition. The district court did not err in denying these motions. *See United States v. Daniel*, 209 F.3d 1091, 1094 (9th Cir. 2000) (holding that a violation of *any* condition of supervised release is sufficient for revocation); *see also United States v. Segal*, 549 F.2d 1293, 1299-1301 (9th Cir. 1977).

Garcia-Quintero now contends, for the first time on appeal, that he also did not receive proper notice of the second condition of supervised release to which he admitted violating. We review for plain error, *United States v. Dupas*, 419 F.3d 916, 924 (9th Cir. 2005), and find none, *see United States v. Ortega-Brito*, 311 F.3d 1136 (9th Cir. 2002).

Garcia-Quintero next contends, also for the first time on appeal, that the supervised release regime is unconstitutional. This contention is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220, 1221 (9th Cir.), *cert. denied*, 127 S. Ct. 545 (2006).

AFFIRMED.