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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. URIEL PEREZ PEREZ, Defendant - Appellant.	No. 08-50025 D.C. No. CR-05-00358-NAJ MEMORANDUM [*]

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

Submitted August 26, 2008[**]

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Uriel Perez Perez appeals from the revocation of his supervised release and the 11-month sentence imposed upon revocation. We have jurisdiction pursuant to 28 U.S.C § 1291, and we affirm the district court.

Perez Perez's contention that the supervised release regime is

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[*] 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).

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unconstitutional, and that *United States v. Huerta-Pimental*, 445 F.3d 1220 (9th Cir 2006), has been undermined by *Cunningham v. California*, 549 U.S. 270 (2007), is foreclosed by *United States v. Santana*, 526 F.3d 1257, 1262 (9th Cir. 2008).

Perez Perez contends that the district court failed to consider the factors set forth in 18 U.S.C. §§ 3553(a) and 3583(e), and failed to explain why those factors justified the sentence it imposed. We conclude that the district court did not commit procedural error in regard to Perez-Perez's within-Guidelines range sentence. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

Perez Perez also challenges the district court's imposition of a supervised release condition requiring him to participate in mental health treatment. We conclude, however, that the district court did not abuse its discretion in imposing such a condition in light of Perez Perez's history of instability, and his violent, combative behavior towards police officers during a recent arrest. *See United States v. Lopez*, 258 F.3d 1053, 1057 (9th Cir. 2001).

AFFIRMED.