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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. PHILLIP L. MARTIN, Defendant - Appellant.	No. 05-10595 D.C. No. CR-04-340-PMP MEMORANDUM[*]

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted May 15, 2006[**]

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges

Phillip L. Martin appeals the sentence imposed under the advisory Sentencing Guidelines scheme following his guilty plea to escape in violation of 18 U.S.C. § 751(a). He contends that his 24-month sentence, consecutive to

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[*] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit 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).

another term, was unreasonable because the district court did not reduce it on the ground that he escaped from a non-secure facility. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review sentences for unreasonableness. *United States v. Plouffe*, No. 05-30045, slip op. 4495, 4505 (9th Cir. Apr. 21, 2006) (amended opinion). "In determining whether a sentence is unreasonable, we are guided by the sentencing factors set forth in 18 U.S.C. § 3553(a), including the sentencing range established by the Sentencing Guidelines." *Id*.

Martin's base offense level was 13 under U.S.S.G. § 2P1.1. The district court made a 2-level downward adjustment under § 3E1.1, for a total offense level of 11. Martin's criminal history category was VI, and so his guidelines range was 27 to 33 months imprisonment. The district court refused to make a four-level downward adjustment under U.S.S.G. § 2P1.1(b)(3) on the ground that he escaped from a non-secure facility. "[C]onsidering all of the factors in 3553," it subtracted 3 months from the Guidelines sentence and imposed a 24-month term.

The district court's Guidelines calculation was correct. As we held in *United States v. Helton*, 127 F.3d 819, 821 (9th Cir. 1997) (per curiam), the Federal Prison Camp on the Nellis Air Force Base, where Martin was in custody, is not a non-secure facility within the meaning of § 2P1.1(b)(3).

Martin contends that the district court should have reduced his sentence below 24 months because he escaped from a minimum security prison; his escape was intended to be temporary because he walked away from a work detail in order to meet his wife; and he assisted the authorities after his arrest. He contends, therefore, the sentence did not accurately reflect the seriousness of the offense, as required by 18 U.S.C. § 3553(a)(2)(A).

We disagree; under the circumstances of this case, the 24-month term was not unreasonable. *See Plouffe*, slip op. at 4505.

AFFIRMED.