

MAR 25 2008

MOLLY DWYER, ACTING 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NOT FOR PUBLICATION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.

KERRY EUGENE KEY, aka Kerry Key,

Defendant - Appellant.

No. 07-50321

D.C. No. CR-01-01235-IEG-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Irma E. Gonzalez, Chief District Judge, Presiding

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Kerry Eugene Key appeals from the 18-month sentence imposed following revocation of his 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.

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

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Key contends that the supervised release revocation procedures set forth in 18 U.S.C. § 3583(e)(3) violate core *Apprendi* values. This contention is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220, 1224-25 (9th Cir. 2006). We reject Key's contention that *Huerta-Pimental* is no longer good law in light of *Cunningham v. California*, 127 S. Ct. 856 (2007) .

AFFIRMED.