

MAR 10 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NOT FOR PUBLICATION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.

MICHAEL WAYNE BIERS,

Defendant - Appellant.

No. 07-30279

D.C. No. CR-03-00021-1-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Michael Wayne Biers appeals from the 11-month term of imprisonment and 20-month term of supervised release imposed by the district court following

* 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).

revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Biers contends that the district court placed excessive weight on certain factors specified by 18 U.S.C. § 3583(e), and inadequate weight on other factors, and that the resultant term of supervised release was unreasonable. We conclude that the district court did not abuse its discretion in its analysis of factors set forth by § 3583(e), including Biers' history and characteristics, and the need to provide Biers with substance abuse treatment. *See Gall v. United States*, 128 S. Ct. 586, 597-98 (2007); *United States Simtob*, 485 F.3d 1058, 1062-64 (9th Cir. 2007). In light of those factors, the term of supervised release imposed was reasonable. *See Gall*, 128 S. Ct. at 597; *United States v. Cope*, 506 F.3d 908, 916 (9th Cir. 2007). Likewise, we reject Biers' argument that even if his term of supervised release was reasonable, his term of imprisonment was unreasonable. *See Gall*, 128 S. Ct. at 597.

AFFIRMED.