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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. MIGUEL PEREZ-HERNANDEZ, Defendant - Appellant.	No. 08-50238 D.C. No. 3:07-cr-02648-GT MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, District Judge, Presiding

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Miguel Perez-Hernandez appeals from the ten-month sentence imposed following revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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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).

DL/Research

Perez-Hernandez contends that the district court erred by failing to expressly calculate the applicable Guidelines range. Reviewing for plain error, we conclude that Perez-Hernandez has not shown that his substantial rights were affected by any error. *See United States v. Dallman*, 533 F.3d 755, 761-62 (9th Cir. 2008).

Perez-Hernandez further contends that the district court erred by failing to consider his mitigation arguments and failing to provide an adequate explanation for the sentence imposed. We reject these contentions in light of the record, which reflects sufficient consideration of Perez-Hernandez's arguments, *see United States v. Perez-Perez*, 512 F.3d 514, 516-17 (9th Cir. 2008), as well as a "reasoned basis" for the sentence imposed, *see Rita v. United States*, 127 S. Ct. 2456, 2468 (2007).

Finally, we reject Perez-Hernandez's contentions that the district court failed to consider the factors set forth by 18 U.S.C. § 3583(e) or whether the sentence imposed was sufficient but not greater than necessary. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc) (We assume that district court judges "know the law and understand their obligation to consider all of the [sentencing] factors.").

The government's request to take judicial notice of the Clerk's record in Case No. 3:08-cr-00099-H from the United States District Court for the Southern

District of California is granted.

AFFIRMED.