

AUG 13 2009

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

SEAN MICHAEL WILSON,

Defendant - Appellant.

No. 08-30447

D.C. No. 3:04-CR-00328-JAR

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
James A. Redden, District Judge, Presiding

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Sean Michael Wilson appeals from the sentence imposed following the 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).

Wilson contends that the district court violated 18 U.S.C. § 3553(c) by failing to state the basis for its sentence in open court at the revocation hearing. This contention is belied by the record.

Wilson also contends that his sentence is unreasonable because the district court failed to consider the relevant 18 U.S.C. § 3553(a) sentencing factors and by improperly considering unproved allegations concerning the seriousness of the original offense. The district court did not procedurally err. *See Gall v. United States*, 128 S. Ct. 586, 601 (2007); *United States v. Simtob*, 485 F.3d 1058, 1062-63 (9th Cir. 2007). To the extent Wilson challenges the substantive reasonableness of the sentence, the sentence is reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.