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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>MANUEL FLOREZ, AKA Manuel Flores,</p> <p>Defendant - Appellant.</p>
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No. 08-30376

D.C. No. 1:99-cr-00048-JDS

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Jack D. Shanstrom, District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Manuel Florez appeals from the 180-month sentence imposed following a jury-trial conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C. § 846. The instant appeal follows a successful 28 U.S.C. § 2255 motion

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

allowing Florez to file an appeal out of time. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we vacate the sentence and remand to the district court.

Florez contends that there is a reasonable probability that he would have received a different sentence, had the district court known that the Sentencing Guidelines were advisory. The government concedes, and we agree, that a limited remand is appropriate. Accordingly, we remand to the district court for further proceedings in light of *United States v. Ameline*, 409 F.3d 1073, 1079 (9th Cir. 2005) (en banc).

Florez's request for supplemental briefing is denied.

VACATED and REMANDED.