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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>FRANCISCO MEZA-GUTIERREZ,</p> <p>Defendant - Appellant.</p> |
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No. 10-10193

D.C. No. 4:09-cr-01675-CKJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted February 21, 2012**

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

Francisco Meza-Gutierrez appeals from the 32-month sentence imposed following his guilty-plea conviction for re-entry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Meza-Gutierrez contends that he was entitled to an additional one-level adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(b). Contrary to his assertion, the government's refusal to move for the additional one-level reduction was justified because Meza-Gutierrez refused to waive his appellate rights. *See United States v. Johnson*, 581 F.3d 994, 1006-07 (9th Cir. 2009); *United States v. Medina-Beltran*, 542 F.3d 729, 731 (9th Cir. 2008) (per curiam).

AFFIRMED.