

JAN 16 2013

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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NOT FOR PUBLICATION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>LUCIA RAMIREZ-VASQUEZ,</p> <p>Defendant - Appellant.</p>

No. 11-10452

D.C. No. 4:11-cr-00821-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James M. Moody, District Judge, Presiding**

Submitted January 15, 2013***

Before: SILVERMAN, BEA, and NGUYEN, Circuit Judges.

Lucia Ramirez-Vasquez appeals from the district court’s judgment and challenges the 60-month sentence imposed following her guilty-plea conviction for

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

** The Honorable James M. Moody, Senior United States District Judge for the Eastern District of Arkansas, sitting by designation.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Ramirez-Vasquez’s motion requesting oral argument is denied.

reentry after deportation, in violation of 8 U.S.C. § 1326. We dismiss.

Ramirez-Vasquez has waived her right to appeal her sentence. She contends, however, that she did not knowingly and intelligently enter into the plea agreement because she relied on her counsel's erroneous prediction as to the length of her sentence. Because this contention depends on a determination whether Ramirez-Vasquez's counsel provided ineffective assistance, we decline to consider this claim on direct appeal, and the record is insufficiently developed to make this determination. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011).

Ramirez-Vasquez asserts no other challenges to the voluntariness of her waiver. We accordingly dismiss this appeal. *See id.* at 1260.

The government's motion to strike portions of the excerpts of record and opening brief is denied.

DISMISSED.