

OCT 03 2013

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>JESUS PACHECO LOZANO,</p> <p>Defendant - Appellant.</p>
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No. 11-35876

D.C. Nos. 1:11-cv-70007-AA
1:05-cr-30062-AA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ann L. Aiken, Chief Judge, Presiding

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Federal prisoner Jesus Pacheco Lozano appeals from the district court’s order denying his 28 U.S.C. § 2255 motion to vacate, set aside or correct his sentence. We have jurisdiction under 28 U.S.C. § 2253. We review a district

* 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).

court's denial of a section 2255 motion de novo, *United States v. Manzo*, 675 F.3d 1204, 1209 (9th Cir. 2012), and we affirm.

Lozano challenges his 2008 guilty-plea conviction of possession with intent to distribute 50 or more grams of actual methamphetamine on the ground that his counsel was ineffective by failing to inform him of the possible immigration consequences of his plea, as required under *Padilla v. Kentucky*, 559 U.S. 356 (2010). The district court properly denied Lozano's motion because he cannot demonstrate prejudice. Lozano was informed of the possible immigration consequences by the plea agreement and at the plea colloquy, and he has not shown that "a decision to reject the plea bargain would have been rational under the circumstances." *See Padilla*, 559 U.S. at 372.

AFFIRMED.