

FEB 26 2014

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NOT FOR PUBLICATION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.

JOSE VALLEJO, a.k.a. Creeper,

Defendant - Appellant.

Nos. 13-50038
13-50069

D.C. No. 2:11-cr-00935-R

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O’SANNLAIN, and FERNANDEZ, Circuit Judges.

In these consolidated appeals, Jose Vallejo appeals from the district court’s judgment and challenges the 57-month sentence imposed following his guilty-plea conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C. § 846. He also appeals from the district court’s order denying his motion to correct

* 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).

the judgment and commitment order. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Vallejo contends that the judgment and commitment order, which imposed a 57-month term of imprisonment, conflicts with the oral pronouncement of the sentence. Contrary to Vallejo's contention, the record reflects that the district court orally imposed a 57-month sentence. Moreover, even if the oral pronouncement were ambiguous, the district court did not err in denying Vallejo's motion to correct the judgment. *See United States v. Garcia*, 37 F.3d 1359, 1368 (9th Cir. 1994) (“[T]he written sentence will control where there are ambiguities in the oral pronouncement of the sentence, and the writing resolves the ambiguity.”), *overruled in part on other grounds by United States v. Jackson*, 167 F.3d 1280 (9th Cir. 1999).

AFFIRMED.