

MAR 13 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NOT FOR PUBLICATION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 MARCOS MIRANDA-GARCIA,

Defendant - Appellant.

No. 13-30079

D.C. No. 2:12-cr-06003-FVS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Fred L. Van Sickle, District Judge, Presiding

Submitted March 10, 2014\*\*

Before: PREGERSON, LEAVY, and MURGUIA, Circuit Judges.

Jose Marcos Miranda-Garcia appeals from the district court's judgment and challenges the 120-month sentence imposed following his guilty-plea conviction for conspiracy to distribute and to possess with intent to distribute methamphetamine, and aiding and abetting, in violation of 21 U.S.C. § 846 and 18

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\* 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).

U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

Miranda-Garcia contends that the district court erred by failing to grant a third-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b). Effective November 1, 2013, section 3E1.1 was amended to clarify that “[t]he government should not withhold [a motion for reduction for acceptance of responsibility] based on interests not identified in § 3E1.1, such as whether the defendant agrees to waive his or her right to appeal.” U.S.S.G. § 3E1.1 cmt. n.6. The government concedes, and we agree, that Miranda-Garcia is entitled to a new sentencing hearing. Accordingly, we vacate Miranda-Garcia’s sentence and remand for resentencing.

**VACATED and REMANDED for resentencing.**