

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 25 2015

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OMAR LEONARDO INIGUEZ,

Defendant - Appellant.

No. 14-10274

D.C. No. 4:11-cr-01470-CKJ

MEMORANDUM\*

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

Submitted June 22, 2015\*\*

Before: HAWKINS, GRABER, and W. FLETCHER, Circuit Judges.

Omar Leonardo Iniguez appeals from the 24-month sentence imposed upon remand for resentencing following his guilty-plea conviction for various firearms offenses. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Iniguez contends that the district court violated his due process rights

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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).

because it imposed the same sentence on remand despite the fact that the advisory Guidelines range had been reduced one additional offense level for acceptance of responsibility under U.S.S.G. § 3E1.1(b). The record reflects that the district court determined that the prior sentence remained appropriate on remand. Accordingly, the district court did not violate Iniguez's due process rights. *See United States v. Horob*, 735 F.3d 866, 869-70 (9th Cir. 2013) (per curiam).

Iniguez also contends that the court was obligated to depart or vary downward to the same extent it had at his initial sentencing hearing. This argument is unpersuasive. The record reflects that the district court varied downward from the Guidelines range at both sentencing hearings. Its decision to vary downward 22 months at the resentencing hearing, rather than 27 months, was not an abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

**AFFIRMED.**