

FEB 29 2016

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NOT FOR PUBLICATION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.

SERGIO MENDEZ,

Defendant - Appellant.

No. 13-10443

D.C. No. 2:11-cr-00356-KJM

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Kimberly J. Mueller, District Judge, Presiding

Submitted February 24, 2016\*\*

Before: LEAVY, FERNANDEZ, RAWLINSON, Circuit Judges.

Sergio Mendez appeals from the district court's judgment and challenges the 262-month sentence imposed following his guilty-plea conviction for conspiracy to distribute and distribution of methamphetamine in violation of 21 U.S.C.

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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).

§§ 841(a)(1) and 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Mendez argues that the district court procedurally erred by misunderstanding its sentencing discretion and presuming a Guideline sentence was reasonable. We review for plain error, *see United States v. Dallman*, 533 F.3d 755, 761 (9th Cir. 2008), and find none. Even if the district court's ambiguous statement at the sentencing hearing regarding the other branches of government constitutes error, Mendez has not shown that the error affected his substantial rights. *See id.* In light of the district court's discussion of the aggravating and mitigating factors in Mendez's case, he has not shown a reasonable probability that he would have received a different sentence absent the alleged error. *See id.* at 762.

**AFFIRMED.**