

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 18 2016

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEONIRE BRAVO-BUCIO,

Defendant - Appellant.

No. 14-10502

D.C. No. 2:14-cr-00702-SPL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Steven P. Logan, District Judge, Presiding

Submitted April 13, 2016\*\*

Before: FARRIS, TALLMAN, and BYBEE, Circuit Judges.

Leonires Bravo-Bucio appeals his guilty-plea conviction and 41-month sentence for reentry of a removed alien, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Bravo-Bucio's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw.

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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).

Having independently reviewed the record, we are unable to determine whether the district court accepted the parties' binding plea agreement. *See* Fed. R. Crim. P. 11(c)(1)(C). The court never stated whether it was accepting or rejecting the agreement. *See United States v. Heredia*, 768 F.3d 1220, 1227 (9th Cir. 2014). Furthermore, when the court initially calculated the Guidelines range, it did not include the one-level early disposition departure to which the parties stipulated. Although it granted a one-level departure later in the sentencing hearing, it is not clear from the record whether that departure was intended to reflect the stipulated early disposition departure or a downward variance. If the court intended to accept the parties' agreement and vary downward one level from the stipulated range, it would have arrived at a Guidelines range of 37-46 months, rather than the 41-51 month range calculated by the court. Given the possibility that this is what the court intended, and that a lower "starting point" may have resulted in a lower sentence, we vacate and remand. *See United States v. Munoz-Camarena*, 631 F.3d 1028, 1030-31 (9th Cir. 2011). On remand, the district court shall state whether it accepts or rejects the plea agreement and proceed accordingly. *See* Fed. R. Crim. P. 11(c)(4)-(5).

Counsel's motion to withdraw is **GRANTED**. The district court shall appoint new counsel for Bravo-Bucio on remand.

**VACATED and REMANDED.**