

FILED

SEP 19 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NOT FOR PUBLICATION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.

FRANCISCO MISAEL AMAYA-  
PORTILLO, AKA Francisco Amaya-  
Portillo,

Defendant-Appellant.

No. 15-10533

D.C. No.

2:15-cr-00955-SRB-1

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Susan R. Bolton, District Judge, Presiding

Submitted September 12, 2016\*\*  
San Francisco, California

Before: W. FLETCHER, CHRISTEN, and FRIEDLAND, Circuit Judges.

After Francisco Amaya-Portillo pleaded guilty to violating 8 U.S.C. §  
1326(a), the district court sentenced him to 18-months of imprisonment, followed

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision  
without oral argument. *See* Fed. R. App. P. 34(a)(2).

by three years of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and affirm the sentence.

Amaya-Portillo's sole claim on appeal is that the government breached the plea agreement he had entered into by implicitly arguing for a harsher sentence than the agreement allowed. We disagree. While the government could have recommended the agreed-upon sentence more enthusiastically, it had no obligation to do that. *See United States v. Johnson*, 187 F.3d 1129, 1135 (9th Cir. 1999). Here, the government recommended the proper sentence, gave reasons to support it, and addressed likely objections. This is all the agreement reasonably demanded.

**AFFIRMED.**