

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 19 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-50371

Plaintiff-Appellee,

D.C. No. 3:12-cr-03942-AJB

v.

MEMORANDUM*

LETICIA AIDEE ROSALES-ESCOBEDO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Anthony J. Battaglia, District Judge, Presiding

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Leticia Aidee Rosales-Escobedo appeals from the district court's denial of her motion under Federal Rule of Criminal Procedure 36. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Rosales-Escobedo contends that the district court had authority under Rule 36 to strike the stipulation of removal provision from her plea agreement, and that it erred in failing to do so. The record reflects that Rosales-Escobedo voluntarily entered into the plea agreement knowing it contained the stipulation of removal. Accordingly, the district court did not clearly err in concluding that relief is not available to Rosales-Escobedo under Rule 36. *See* Fed. R. Crim. P. 36; *United States v. Dickie*, 752 F.2d 1398, 1400 (9th Cir. 1985) (stating standard of review); *United States v. Kaye*, 739 F.2d 488, 490 (9th Cir. 1984) (Rule 36 “is a narrow provision limited to correction of errors of no more than clerical significance”).

AFFIRMED.