

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-10244

Plaintiff-Appellee,

D.C. No. 2:11-cr-00374-JCM

v.

MEMORANDUM*

JASON ANDRE,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Submitted April 11, 2017**

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

Jason Andre appeals pro se from the district court's order denying his motion to correct an error in his plea agreement under Federal Rule of Criminal Procedure 36. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Andre contends that the district court erred by declining to correct an

* 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).

erroneous Guidelines citation in his plea agreement. Andre does not cite any authority to support his contention that a nonbinding plea agreement between the parties falls within Rule 36's purview. Moreover, the record reflects that the sentencing court cited the correct Guidelines provision in imposing the sentence, and the judgment accurately reflects the court's oral pronouncement of Andre's sentence. Under these circumstances, we conclude that the district court did not clearly err in denying Andre's motion. *See United States v. Dickie*, 752 F.2d 1398, 1400 (9th Cir. 1985).

AFFIRMED.