

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 29 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS ARTURO MAGANA-
RAMIREZ, AKA Guero,

Defendant - Appellant.

No. 23-4284

D.C. No.

2:20-cr-00092-JCC-3

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, District Judge, Presiding

Submitted November 20, 2024**

Before: CANBY, TALLMAN, and CLIFTON, Circuit Judges.

Luis Arturo Magana-Ramirez appeals from the district court's judgment and challenges the 204-month sentence imposed following his guilty-plea conviction for conspiracy to distribute controlled substances, in violation of 21 U.S.C.

* 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).

§§ 841(a)(1), (b)(1)(A) and 846, and being an illegal alien in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(5)(A).

The district court imposed concurrent sentences of 204 months' imprisonment and 5 years' supervised release on each count. As the parties agree, that sentence exceeds the statutory maximum applicable to the § 922(g)(5)(A) count. Accordingly, we vacate the custodial sentence and supervised release term on the § 922(g)(5)(A) count and remand for the district court to enter an amended judgment imposing a sentence at or below the applicable statutory maximum for that count. Contrary to Magana-Ramirez's argument, there is no cause to vacate the statutorily authorized 204-month custodial sentence and 5-year supervised release term on the drug count, which is the sentence the court intended to impose on that count. *See United States v. Halamek*, 5 F.4th 1081, 1091 (9th Cir. 2021).

VACATED in part and REMANDED.