

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-10097

Plaintiff-Appellee,

D.C. No. 3:14-cr-00369-WHO

v.

MEMORANDUM*

RAYMOND SALAZAR, Jr.,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of California
William Horsley Orrick, District Judge, Presiding

Submitted June 26, 2017**

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

Raymond Salazar, Jr., appeals from the district court's order affirming the magistrate judge's denial of his motion for early termination of probation. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Salazar contends that the magistrate judge erred by applying an incorrect

* 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).

legal standard in denying his motion for early termination. Specifically, he asserts that the magistrate judge incorrectly required that he demonstrate “exceptionally good behavior” as a prerequisite to early termination. The government responds that Salazar’s claim is barred by the appeal waiver contained in the parties’ plea agreement. We decline to enforce the waiver and instead affirm on the merits. *See United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc). The magistrate judge did not abuse her discretion in denying Salazar’s motion. *See United States v. Nixon*, 839 F.3d 885, 887 (9th Cir. 2016) (reviewing denial of request to modify conditions of probation for abuse of discretion). Contrary to Salazar’s contention, the record reflects that the magistrate judge applied the correct legal standard when she considered the 18 U.S.C. § 3553(a) factors and determined that Salazar’s mere compliance with the conditions of probation, without more, did not warrant early termination. *See* 18 U.S.C. § 3564(c).

AFFIRMED.