

DEC 1 2014

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NOT FOR PUBLICATION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.

JESUS MARIA FELIX-ENRIQUEZ,

Defendant - Appellant.

No. 13-10617

D.C. No. 2:13-cr-00744-SRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Linda R. Reade, District Judge, Presiding**

Submitted November 18, 2014***

Before: LEAVY, FISHER, and N.R. SMITH, Circuit Judges.

Jesus Maria Felix-Enriquez appeals from the district court's judgment and challenges his guilty-plea conviction for possession with intent to distribute

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Linda R. Reade, Chief United States District Judge for the Northern District of Iowa, sitting by designation.

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

cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The government contends that this appeal is barred by an appeal waiver. Because the district court advised Felix-Enriquez that he could appeal, we decline to enforce the waiver. *See United States v. Buchanan*, 59 F.3d 914, 917-18 (9th Cir. 1995).

Felix-Enriquez contends that his guilty plea was invalid because the district court violated Federal Rule of Criminal Procedure 11(b)(1)(H) by advising him that he faced “a term of supervised release of at least three years,” rather than advising him that he faced a maximum life term of supervised release. Because Felix-Enriquez did not object to the adequacy of the plea colloquy before the district court, we review only for plain error. *See United States v. Dominguez Benitez*, 542 U.S. 74, 76 (2004). Felix-Enriquez has failed to show a reasonable probability that, but for the Rule 11 error, he would not have pleaded guilty. *See id.*

AFFIRMED.