

FILED

SEP 19 2016

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NOT FOR PUBLICATION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.

FRANCISCO MISAEL AMAYA-
PORTILLO, AKA Francisco Amaya-
Portillo,

Defendant-Appellant.

No. 15-10533

D.C. No.

2:15-cr-00955-SRB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted September 12, 2016**
San Francisco, California

Before: W. FLETCHER, CHRISTEN, and FRIEDLAND, Circuit Judges.

After Francisco Amaya-Portillo pleaded guilty to violating 8 U.S.C. §
1326(a), the district court sentenced him to 18-months of imprisonment, followed

* 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).

by three years of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and affirm the sentence.

Amaya-Portillo's sole claim on appeal is that the government breached the plea agreement he had entered into by implicitly arguing for a harsher sentence than the agreement allowed. We disagree. While the government could have recommended the agreed-upon sentence more enthusiastically, it had no obligation to do that. *See United States v. Johnson*, 187 F.3d 1129, 1135 (9th Cir. 1999). Here, the government recommended the proper sentence, gave reasons to support it, and addressed likely objections. This is all the agreement reasonably demanded.

AFFIRMED.