

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-10044

Plaintiff-Appellee,

D.C. No. 5:16-cr-00020-BLF

v.

MEMORANDUM*

ANGEL LOPEZ-RAMIREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of California
Beth Labson Freeman, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Angel Lopez-Ramirez appeals from the district court's judgment and challenges the 46-month sentence imposed following his guilty-plea conviction for illegal reentry following deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

* 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).

The government concedes, and we agree, that the district court plainly erred by failing to address Lopez-Ramirez personally to ask if he wanted to speak before sentencing. *See* Fed. R. Crim. P. 32(i)(4)(A)(ii); *United States v. Daniels*, 760 F.3d 920, 925-26 (9th Cir. 2014). Accordingly, we vacate and remand for resentencing. *See Daniels*, 760 F.3d at 926.

Lopez-Ramirez asks us to reach his other claims of error to provide the district court “guidance” on remand. We decline to do so because we do not know what sentencing arguments the parties will make on remand, how the court will respond to those arguments, or what sentence it will impose. *See United States v. Kaczynski*, 551 F.3d 1120, 1124 (9th Cir. 2009) (declining to issue an advisory opinion based on speculation about possible future events).

VACATED and REMANDED for resentencing.