

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 07 2008

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ZHICHENG ZENG,

Defendant - Appellant.

No. 08-10013

D.C. No. CR-05-00465-JSW-2

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted July 22, 2008**

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Zhicheng Zeng appeals from the six-month sentence imposed following his guilty-plea conviction for making and using a writing containing a false, fictitious,

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

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

or fraudulent statement or representation, in violation of 18 U.S.C. § 1001(a)(3).

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Zeng contends that the government breached his plea agreement when it recommended that the district court impose a six-month term of imprisonment. He contends that the government promised not to recommend a sentence that included prison time. The record belies this contention. Because the government never promised not to recommend a prison sentence, it did not breach the plea agreement. *See United States v. Jeronimo*, 398 F.3d 1149, 1153 (9th Cir. 2005).

Zeng does not dispute that the appeal waiver in the plea agreement was knowing and voluntary. Because the sentence comported with the agreement, we affirm the decision of the district court. *See United States v. Bibler*, 495 F.3d 621, 623-24 (9th Cir. 2007).

AFFIRMED.