

APR 20 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>MIGUEL ABUNDEZ-CHAVEZ,</p> <p>Defendant - Appellant.</p>

No. 07-10609

D.C. No. CR-07-00728-1-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Miguel Abundez-Chavez appeals from the 33-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C.

* 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). Accordingly, Abundez-Chavez's request for oral argument is denied.

§ 1291, and we affirm.

Abundez-Chavez contends that the district court erred when it determined that his prior conviction for discharging a firearm from a motor vehicle, in violation of Utah Code Ann. § 76-10-508, is a crime of violence as defined by U.S.S.G. § 2L1.2(b)(1)(A)(ii). We are precluded from reaching the merits of this claim by the valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958 (9th Cir. 2000); *see also United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

AFFIRMED.