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OCT 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. FELIPE CARRASCO-RIVERA, Defendant - Appellant.	No. 09-50005 D.C. No. 3:08-CR-01353-LAB-1 MEMORANDUM[*]

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted September 14, 2009[**]

Before: SILVERMAN, RAWLINSON and CLIFTON, Circuit Judges.

Felipe Carrasco-Rivera appeals his 48-month sentence and conviction for being a previously deported alien found in the United States, in violation of 8 U.S.C. § 1326(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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[*] 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).

MVD/Inventory

The district court did not err in imposing a sixteen-level sentencing enhancement for Carrasco-Rivera's prior conviction under California Penal Code § 288(a). *See* U.S.S.G. § 2L1.2(b)(1)(A)(ii). We previously have held that § 288(a) categorically constitutes a "crime of violence" under the approach set forth in *Taylor v. United States*, 495 U.S. 575 (1990). *United States v. Medina-Maella*, 351 F.3d 944, 947 (9th Cir. 2003). For the reasons explained in *United States v. Medina-Villa*, 567 F.3d 507, 511 (9th Cir. 2009), our recent decision in *Estrada-Espinoza v. Mukasey*, 546 F.3d 1147 (9th Cir. 2008) (en banc), does not change this conclusion.

As Carrasco-Rivera concedes, his remaining arguments–that we should limit *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), to its facts under the doctrine of constitutional doubt; that *Almendarez-Torres* has been overruled; and that 8 U.S.C. § 1326(b) is unconstitutional–are squarely foreclosed by our precedent. *See United States v. Salazar-Lopez*, 506 F.3d 748, 751 n.3 (9th Cir. 2007); *United States v. Beng-Salazar*, 452 F.3d 1088, 1091 (9th Cir. 2006); *United States v. Covian-Sandoval*, 462 F.3d 1090, 1096-97 (9th Cir. 2006).

AFFIRMED.