

MAR 04 2010

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NOT FOR PUBLICATION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.

GUADENCIO CAYETANO-CAMACHO,

Defendant - Appellant.

No. 09-50053

D.C. No. 3:07-CR-03267-JLS-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD and M. SMITH, Circuit Judges.

Guadencio Cayetano-Camacho appeals from the 51-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United

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

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

States, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

Cayetano-Camacho contends the district court erred by applying a “crime of violence” sentencing enhancement, pursuant to U.S.S.G. § 2L1.2(b)(1)(A)(ii), because his prior conviction for lewd and lascivious acts on a minor under 14, in violation of California Penal Code § 288(a), does not constitute sexual abuse of a minor. This contention is foreclosed by *United States v. Medina-Villa*, 567 F.3d 507, 509 (9th Cir. 2009).

AFFIRMED.