

JUN 10 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NOT FOR PUBLICATION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.

ROGELIO PEREZ-GONZALEZ,

Defendant - Appellant.

No. 08-50476

D.C. No. 3:08-cr-01138-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Rogelio Perez-Gonzalez appeals from the 70-month sentence imposed following his jury-trial 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 under 28 U.S.C. § 1291, and we affirm.

Perez-Gonzalez contends that the district court erred by applying a 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii) because his prior convictions for assault with a deadly weapon, in violation of California Penal Code § 245(a)(1), and inflicting corporal injury on a spouse, in violation of California Penal Code § 273.5, do not qualify as crimes of violence under the Sentencing Guidelines. This contention is foreclosed. *See United States v. Grajeda*, 581 F.3d 1186, 1191-97 (9th Cir. 2009) (holding that a conviction under California Penal Code § 245(a)(1) is categorically a “crime of violence” under the Guidelines); *see also United States v. Laurico-Yeno*, 590 F.3d 818, 823 (9th Cir. 2010) (holding that a conviction under California Penal Code § 273.5 is categorically a “crime of violence” under the Guidelines).

AFFIRMED.