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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NOT FOR PUBLICATION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>AGUSTIN VERA-FONSECA,</p> <p>Defendant - Appellant.</p>
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No. 09-10233

D.C. No. 2:04-CR-01157-DGC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Agustin Vera-Fonseca appeals from the district court’s judgment revoking supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Vera-Fonseca contends the district court erred by determining that he violated the terms of his supervised release by illegally reentering 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. Specifically, he contends that the evidence introduced by the government to show that he was the same individual who was subject to the supervised release condition and had illegally reentered was unreliable and otherwise failed to satisfy the preponderance of the evidence standard.

The record reflects that the district court did not err by relying on a sworn statement of a U.S. Customs and Border Protection enforcement officer as to the circumstances of Vera-Fonseca's arrest and the sworn testimony of Vera-Fonseca's probation officer. *See United States v. Walker*, 117 F.3d 417, 420-21 (9th Cir. 1997). Moreover, Vera-Fonseca's contention that his identity was in dispute is undermined by the fact that he previously appeared before and was sentenced by the same district court judge. *See United States v. Black Bear*, 542 F.3d 249, 254 (9th Cir. 2008).

AFFIRMED.