

AUG 02 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NOT FOR PUBLICATION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.

ULYSES JUAREZ-AGUILAR,

Defendant - Appellant.

No. 09-50375

D.C. No. 3:08-cr-04323-MMA

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Michael M. Anello, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Ulyses Juarez-Aguilar appeals from the 46-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Juarez-Aguilar contends the district court erred when it applied a 16-level “crime of violence” adjustment under U.S.S.G. § 2L1.2(b)(1)(A)(ii), based on his prior conviction for inflicting corporal injury on a spouse, in violation of California Penal Code § 273.5. Juarez-Aguilar’s contention is foreclosed by *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 because the offense requires the intentional use of physical force against the person of another).

As Juarez-Aguilar concedes, his contention that his Fifth and Sixth Amendment rights were violated is foreclosed. *See, e.g., United States v. Covian-Sandoval*, 462 F.3d 1090, 1096-97 (9th Cir. 2006); *see also United States v. Grisel*, 488 F.3d 844, 846 (9th Cir. 2007) (en banc).

AFFIRMED.