

SEP 22 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NOT FOR PUBLICATION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.

ARNULFO MURILLO-CUELLAR,

Defendant - Appellant.

No. 10-50023

D.C. No. 3:09-cr-02436-LAB-1

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN and N.R. SMITH, Circuit Judges.

Arnulfo Murillo-Cuellar appeals the sentence imposed following his guilty plea to illegal reentry after deportation 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).

Murillo-Cuellar 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. Murillo-Cuellar'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 Murillo-Cuellar 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.

