

NOV 03 2011

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NOT FOR PUBLICATION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.

CESAR CORREA-CORREA,

Defendant - Appellant.

No. 10-10226

D.C. No. 4:09-cr-01626-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, Chief Judge, Presiding

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Cesar Correa-Correa appeals from the low-end 41-month sentence imposed following his guilty-plea conviction for illegal reentry, in violation of 8 U.S.C. § 1326. We dismiss.

* 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).

Correa-Correa contends that the district court erred in applying the 16-level “crime of violence” enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii) because it conducted a modified categorical analysis of the relevant state statute without first determining that the statute is broader than its federal counterpart. We are precluded from reaching the merits of Correa-Correa’s claim by a valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958-59 (9th Cir. 2000); *see also United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

DISMISSED.