

FILED

NOV 09 2017

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NOT FOR PUBLICATION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.

DAVID ROSALES-AGUILAR,

Defendant-Appellant.

No. 14-50315

D.C. No.
3:13-cr-03254-BTM-1

MEMORANDUM*

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

Argued and Submitted September 1, 2015
Submission Withdrawn March 21, 2017
Resubmitted November 9, 2017
Pasadena, California

Before: **KOZINSKI, O'SCANLAIN** and **BYBEE**, Circuit Judges.

California Health and Safety Code section 11352(a) is divisible. United States v. Martinez-Lopez, 864 F.3d 1034, 1043 (9th Cir. 2017) (en banc). The

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

district court didn't err by enhancing Rosales's sentence. See United States v. Rosales-Aguilar, 818 F.3d 965, 973 (9th Cir. 2016).

AFFIRMED.