

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 20 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

FRANCISCO JAVIER LOPEZ MADRID,

Defendant-Appellant.

No. 16-10306

D.C. No. 3:14-cr-00038-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Francisco Javier Lopez Madrid appeals from the district court's order affirming the judgment of conviction entered by a magistrate judge following Lopez's guilty plea to carrying a concealed weapon, in violation of 18 U.S.C. § 13 and California Penal Code § 25400(a)(1). 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 Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Lopez contends that his conviction is unconstitutional because it violates his rights under the Second Amendment. Contrary to the government's argument, Lopez has standing to present a facial challenge to the constitutionality of the statute under which he was convicted. *See Bond v. United States*, 564 U.S. 211, 217 (2011). But, as Lopez acknowledges, his claim is foreclosed by *Peruta v. County of San Diego*, 824 F.3d 919, 927 (9th Cir. 2016) (en banc).

AFFIRMED.