

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 29 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-10439

Plaintiff-Appellee,

D.C. No. 4:16-cr-00153-HSG-1

v.

MEMORANDUM\*

JESSE DAVID HARTMAN,

Defendant-Appellant.

Appeal from the United States District Court  
for the Northern District of California  
Haywood S. Gilliam, Jr., District Judge, Presiding

Submitted May 21, 2019\*\*

Before: THOMAS, Chief Judge, FRIEDLAND and BENNETT, Circuit Judges.

Jesse David Hartman appeals from the district court's judgment and challenges the 63-month sentence imposed following his guilty-plea conviction for being a felon in possession of firearms and ammunition, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Hartman contends that the district court erred in determining that his prior conviction for assault with a deadly weapon in violation of California Penal Code § 245(a)(1) is a categorical crime of violence under U.S.S.G. §§ 2K2.1(a)(4)(A) and 4B1.2(a)(1). Hartman’s argument is foreclosed by *United States v. Vasquez-Gonzalez*, 901 F.3d 1060, 1065-68 (9th Cir. 2018), which was decided after the briefing in this case was complete. In *Vasquez-Gonzalez*, this court held that section 245(a)(1) is a categorical crime of violence under 18 U.S.C. § 16(a), which is materially identical to § 4B1.2(a)(1). *See id.* at 1068; *see also United States v. Werle*, 877 F.3d 879, 883-84 (9th Cir. 2017) (stating that the language of § 16(a) “largely mirrors” the language of § 4B1.2(a)(1)). Accordingly, *Vasquez-Gonzalez* controls here and the district court did not err in determining that Hartman’s prior assault conviction is a categorical crime of violence.

**AFFIRMED.**