

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 28 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-50059

Plaintiff-Appellee,

D.C. No. 8:19-cr-00167-DOC-5

v.

MEMORANDUM*

MICHAEL RIVERA DELGADO, AKA
Player,

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted February 15, 2022**

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Michael Rivera Delgado appeals from the district court's judgment and challenges the 110-month sentence imposed following his guilty-plea conviction for engaging in the business of dealing in firearms without a license and aiding and abetting, in violation of 18 U.S.C. §§ 2(a), 922(a)(1)(A), and being a felon in

* 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).

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.

Delgado contends that the district court erred by treating his prior state conviction for making a criminal threat under California Penal Code § 422 as a crime of violence under U.S.S.G. §§ 2K2.1 and 4B1.2(a). Delgado's argument is foreclosed by *United States v. Villavicencio-Burrue*, 608 F.3d 556, 563 (9th Cir. 2010). Contrary to Delgado's assertion, we are bound by *Villavicencio-Burrue*, which remains good law. See *Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc) (holding that a three-judge panel is bound by circuit precedent unless that precedent is "clearly irreconcilable" with intervening higher authority); *Arellano Hernandez v. Lynch*, 831 F.3d 1127, 1131 (9th Cir. 2016) (rejecting argument that *Villavicencio-Burrue* is no longer valid and stating that the decision "remains the law of this circuit").

AFFIRMED.