

FILED

MAY 22 2023

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NOT FOR PUBLICATION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.

MANUEL RODRIGUES-BARIOS,

Defendant-Appellant.

No. 21-50145

D.C. No.

3:20-cr-01684-LAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted December 8, 2022**
Pasadena, California

Before: BEA, IKUTA, and CHRISTEN, Circuit Judges.

Manuel Rodrigues-Barios appeals his conviction for attempted illegal reentry after deportation in violation of 8 U.S.C. § 1326. 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).

Contrary to Rodrigues-Barios's argument, 8 U.S.C. § 1326 does not violate the equal protection guarantee of the Fifth Amendment. *See United States v. Carrillo-Lopez*, No. 21-10233, ___ F.4th ___ (9th Cir. 2023). Therefore, the district court did not err in denying Rodrigues-Barios's motion to dismiss his information.¹

AFFIRMED.

¹ Because *Carrillo-Lopez* determined, based on the relevant historical record, that Congress did not enact § 1326 with a racially discriminatory motive, we decline Rodrigues-Barios's request to remand for an evidentiary hearing.