

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 30 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MARCIANO MUNOZ-DE LA O, AKA
Marciano Munoz, AKA Marciano Munoz-
Delao,

Defendant-Appellant.

No. 22-30100

D.C. No. 2:20-cr-00134-RMP-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Rosanna Malouf Peterson, District Judge, Presiding

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

Marciano Munoz-De La O appeals his conviction, following a conditional guilty plea, for being an alien in the United States after deportation, in violation of 8 U.S.C. § 1326. He argues that the district court erred by denying his motion to

* 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).

dismiss the indictment. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Munoz-De La O contends that § 1326 violates his equal protection rights under the Fifth Amendment because Congress passed the statute with a discriminatory purpose. As he acknowledges in his opening brief, this court rejected that argument in *United States v. Carrillo-Lopez*, 68 F.4th 1133 (9th Cir. 2023), *cert. denied*, 144 S. Ct. 703 (2024), and we are bound by that decision, *see Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc).

AFFIRMED.