**NOT FOR PUBLICATION**

FILED

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| UNITED STATES OF AMERICA,<br><br>Plaintiff - Appellee,<br><br>v.<br><br>JOSE LUIS GALLARDO-MONARES,<br><br>Defendant - Appellant. | No. 26-100<br><br>D.C. No.<br>3:19-cr-03836-MDD-WQH-1<br><br>MEMORANDUM[*] |

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted October 27, 2026[**]

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Jose Luis Gallardo-Monares appeals from the district court's order affirming his bench-trial conviction for misdemeanor attempted illegal entry under 8 U.S.C. § 1325(a)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Gallardo-Monares contends that there was insufficient evidence to prove,

[*] 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).

beyond a reasonable doubt, that he committed the crime of attempted illegal entry. We review this claim de novo, asking whether "viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *United States v. Aldana*, 878 F.3d 877, 880 (9th Cir. 2017) (internal quotation marks omitted).

The evidence at trial showed that a border patrol agent, acting in response to an alert, found Gallardo-Monares hiding in brush in a remote area approximately two and a half miles north of the border and 16 miles from the nearest port of entry. Gallardo-Monares was wearing booties often used by people illegally entering the country to conceal footprints. Neither Gallardo-Monares, nor his two companions, had any recreational gear with them. Upon questioning by the agent, Gallardo-Monares stated he was a citizen of Mexico and did not have immigration documents showing he was legally present in the United States. Lastly, a records custodian testified that federal immigration databases contained no record of Gallardo-Monares's name or date of birth.

Gallardo-Monares argues that his confession was the only proof of the alienage element of the offense, violating the corpus delicti doctrine. This claim fails because there was "some" independent evidence supporting Gallardo-Monares's confession, including the circumstances of his discovery. *See United States v. Gonzalez-Godinez*, 89 F.4th 1205, 1210-11 (9th Cir. 2024). As to the

remaining elements of the offense, Gallardo-Monares argues that the evidence was insufficient to show that he entered the United States. However, a rational trier of fact could infer from the evidence that Gallardo-Monares had entered the country at a time and place other than a designated port of entry, with the specific intent to do so, and took a substantial step toward committing the crime. *See United States v. Rizo-Rizo*, 16 F.4th 1292, 1294 (9th Cir. 2021) (listing elements of attempted illegal entry); *United States v. Quintana-Torres*, 235 F.3d 1197, 1200 (9th Cir. 2000) ("[A] reasonable [factfinder] may well infer that the alien had the intention to be here when the alien is discovered at any location in the country other than the border.").

**AFFIRMED.**