

Appendix A
9th Circuit's Opinion

Document:United States v. Heredia-Silva, 735 Fed. Appx. 344

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United States Court of Appeals for the Ninth Circuit

August 15, 2018 , Submitted; August 21, 2018, Filed

No. 17-50209

Reporter

735 Fed. Appx. 344 * | 2018 U.S. App. LEXIS 23368 ** | 2018 WL 3979558

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. FRANCISCO HEREDIA-SILVA, Defendant-Appellant.

Notice: PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Prior History:  Appeal from the United States District Court for the Southern District of California. D.C. No. 3:16-cr-02622-LAB. Larry A. Burns , District Judge, Presiding.

Disposition: AFFIRMED.

Core Terms

violent crime

Counsel: For United States of America, Plaintiff - Appellee: Helen H. Hong, Assistant U.S. Attorney, Ajay Krishnamorthy , Steven Lee, Esquire, Special Assistant U.S. Attorney, Office of the US Attorney, San Diego, CA.

For Francisco **Heredia-Silva**, Defendant - Appellant: David James **Zugman** , Attorney, Burcham & Zugman, San Diego, CA.

Judges: Before: **FARRIS** , **BYBEE** , and **N.R. SMITH** , Circuit Judges.

Opinion

[*345] MEMORANDUM

Francisco **Heredia-Silva** appeals his bench-trial conviction for being a removed alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Heredia-Silva contends that his prior conviction for making terrorist threats under California Penal Code § 422 is not a "crime of violence" for purposes of 18 U.S.C. § 16(a). He argues, therefore, that the district court erred by denying his motion to dismiss the information under 8 U.S.C. § 1326(d). As **Heredia-Silva** concedes, this argument is foreclosed. *See Arellano Hernandez v. Lynch*, 831 F.3d 1127, 1132 (9th Cir. 2016) ("[A]pplying our precedent, section 422 is categorically a crime of violence."). **Heredia-Silva**'s request that we sua sponte call for en banc review of this precedent is denied.

AFFIRMED [*2].

Footnotes



The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).



This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Content Type: Cases

Terms: heredia-Silva & Zugman

Narrow By: Court: United States Supreme Court or 9th Circuit

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