

Appendix A  
9th Circuit's Opinion

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

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

### Copy Citation

United States Court of Appeals for the Ninth Circuit

August 15, 2018, **\*\* 2**, 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**Notice:** PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.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:** **[\*\*1]** Appeal from the United States District Court for the Southern District of California. D.C. No. 3:16-cr-02622-LAB. Larry A. Burns v., 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 Krishnamoorthy v., 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

[\*\*2] ▼

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

[\*\*3] ▼

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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