

OCT 28 2010

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NOT FOR PUBLICATION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.

JOSE LUIS LOPEZ-PEREZ,

Defendant - Appellant.

No. 09-10422

D.C. No. 4:08-cr-00888-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Jose Luis Lopez-Perez appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal reentry after deportation, in violation of 8 U.S.C. § 1326(a). 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 9th Cir. R. 36-3.

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

Lopez-Perez contends that the district court erred by determining that his prior conviction qualifies as a drug trafficking offense under the Sentencing Guidelines. The district court did not err by concluding that Lopez-Perez's conviction under Arizona Revised Statute § 13-3405 for transportation of marijuana for sale is a drug trafficking offense. *See* U.S.S.G. § 2L1.2 cmt. n.1(B)(iv); *United States v. Martinez-Rodriguez*, 472 F.3d 1087, 1095 (9th Cir. 2007) (possession of marijuana for sale is a drug trafficking offense under the Sentencing Guidelines); *see also State v. Chabolla-Hinojosa*, 965 P.2d 94, 97 (Ariz. Ct. App. 1998) (“transportation” of marijuana necessarily involves the possession of marijuana).

AFFIRMED.