

OCT 05 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NOT FOR PUBLICATION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.

JUVENILE MALE,

Defendant - Appellant.

No. 07-50538

D.C. No. CR-07-02561-TJW

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Thomas J. Whelan, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Oscar F., a juvenile male, appeals from an adjudication of juvenile delinquency, in violation of 18 U.S.C. § 5032, after a finding of guilt by the district court for multiple violations of 8 U.S.C. § 1324. We have jurisdiction under 28

* 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).

U.S.C. § 1291. We may affirm on any ground supported by the record, *Dittman v. California*, 191 F.3d 1020, 1027 n.3 (9th Cir. 1999), and we affirm.

Oscar F. contends the district court lacked jurisdiction over him because the 18 U.S.C. § 5032 certification was inaccurate. The parties do not dispute that the state authorities did not prosecute Oscar F. for the instant offenses. A de novo review of the record reveals that the United States Attorney accurately certified that “the State of California does not have jurisdiction” over Oscar F. *See United States v. Juvenile Male*, 595 F.3d 885, 891-95 (9th Cir. 2010) (concluding that when the appropriate state prosecutor decides not to prosecute a particular juvenile for the specific crime at issue, the state court never obtains jurisdiction over the juvenile); *United States v. Male Juvenile*, 280 F.3d 1008, 1014 (9th Cir. 2002) (stating standard of review). Accordingly, the district court properly exercised jurisdiction over Oscar F.

AFFIRMED.