

APR 27 2015

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NOT FOR PUBLICATION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 MARIA FELIX-VILLALOBOS,
a.k.a. Jose Maria Felix,

Defendant - Appellant.

No. 13-10632

D.C. No. 4:13-cr-01242-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, Chief Judge, Presiding

Submitted April 22, 2015**

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Jose Maria Felix-Villalobos appeals from the district court's judgment and challenges the 48-month sentence imposed following his guilty-plea conviction for reentry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction

* 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).

under 28 U.S.C. § 1291, and we affirm.

Felix-Villalobos contends that his sentence should not have exceed two years because the fact of the prior conviction that subjected him to enhanced penalties under section 1326(b) was neither alleged in the indictment nor proven beyond a reasonable doubt. As Felix-Villalobos acknowledges, we are bound by *Almendarez-Torres v. United States*, 523 U.S. 224, 239-47 (1998), in which the Supreme Court rejected this argument.

AFFIRMED.