

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NOT FOR PUBLICATION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.

RUBEN RUIZ-ROSALES,

Defendant - Appellant.

No. 14-50267

D.C. No. 3:13-cr-01621-JM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted April 22, 2015**

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

Ruben Ruiz-Rosales appeals from the district court's judgment and challenges the 30-month sentence following his guilty plea 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.

* 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).

In imposing the 30-month sentence, the district court correctly determined that California Health & Safety Code § 11351 is divisible within the meaning of *Descamps v. United States*, 133 S. Ct. 2276 (2013), and therefore subject to the modified categorical approach. *See United States v. Torre-Jimenez*, 771 F.3d 1163, 1167 (9th Cir. 2014) (holding section 11351 is divisible).

AFFIRMED.