

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 29 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 16-10540

Plaintiff-Appellee,

D.C. No.

v.

1:13-cr-00238-LJO-SKO-1

JUAN MANUEL PEREZ,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted May 21, 2019**

Before: THOMAS, Chief Judge, FRIEDLAND and BENNETT, Circuit Judges.

Juan Manuel Perez appeals from the district court's judgment and challenges the 100-month concurrent sentences imposed on remand following his jury-trial convictions for possession of an illegal firearm, in violation of 26 U.S.C. § 5861(d), and being a felon in possession of a firearm, in violation of 18 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

§ 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Perez contends that the district court erred in concluding that his two prior convictions for assault with a deadly weapon in violation of California Penal Code § 245(a)(1) are categorical crimes of violence under U.S.S.G.

§§ 2K2.1(a)(1) and 4B1.2(a)(1). Perez’s argument is foreclosed by *United States v. Vasquez-Gonzalez*, 901 F.3d 1060, 1065-68 (9th Cir. 2018), which was decided after briefing in this case was complete. In *Vasquez-Gonzalez*, this court held that section 245(a)(1) is a categorical crime of violence under 18 U.S.C. § 16(a), which is materially identical to § 4B1.2(a)(1). *See id.* at 1068; *see also United States v. Werle*, 877 F.3d 879, 883-84 (9th Cir. 2017) (stating that the language of § 16(a) “largely mirrors” the language of § 4B1.2(a)(1)). Accordingly, *Vasquez-Gonzalez* controls here and the district court did not err in concluding that Perez’s prior convictions for assault with a deadly weapon in violation of section 245(a)(1) are categorical crimes of violence.

AFFIRMED.