

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 7 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MARTIN ANTHONY NINO,

Defendant-Appellant.

No. 20-10397

D.C. Nos.

4:16-cr-01937-JAS-BGM-1

4:16-cr-01937-JAS-BGM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
James Alan Soto, District Judge, Presiding

Submitted September 2, 2021\*\*  
San Francisco, California

Before: RAWLINSON and BYBEE, Circuit Judges, and CARDONE,\*\* District Judge.

Defendant-Appellant Martin Nino (Nino) appeals from a November 6, 2020, interlocutory order in which the district court committed him to the custody of the

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\* 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).

\*\*\* The Honorable Kathleen Cardone, United States District Judge for the Western District of Texas, sitting by designation.

Attorney General for pre-trial competency restoration. We have jurisdiction under 28 U.S.C. § 1291 and the collateral order doctrine. *United States v. Friedman*, 366 F.3d 975, 980 (9th Cir. 2004). We review constitutional challenges to a statute and issues of statutory construction de novo. *United States v. Quintero*, 995 F.3d 1044, 1049 (9th Cir. 2021) (citations omitted).

While this appeal was pending, Nino filed with this Court a Federal Rule of Appellate Procedure 28(j) letter stating that this Court’s decision in *Quintero*, 995 F.3d at 1044–61, disposes of all of the issues presented in his Opening Brief. That is correct—each of the arguments raised by Nino in the instant case were raised and rejected by this Court in *Quintero*. *See* 995 F.3d at 1044–61. For the reasons set out in *Quintero*, we affirm the district court’s order committing Nino to the Attorney General’s custody for pre-trial competency restoration. *See id.*

**AFFIRMED.**