

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS ANDRES COSS-VASQUEZ,

Defendant - Appellant.

No. 06-10115

D.C. No. CR-05-00138-FRZ/GEE

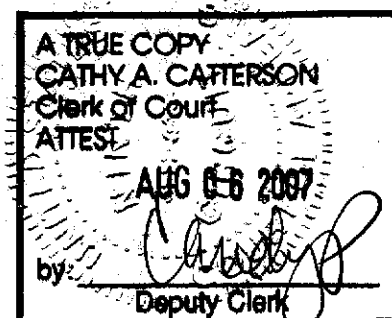
JUDGMENT

Appeal from the United States District Court for the District of Arizona
(Tucson).

This cause came on to be heard on the Transcript of the Record from the
United States District Court for the District of Arizona (Tucson) and was duly
submitted.

On consideration whereof, it is now here ordered and adjudged by this
Court, that the judgment of the said District Court in this cause be, and hereby is
AFFIRMED.

Filed and entered 07/13/07



FILED

JUL 13 2007

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

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v.

CARLOS ANDRES COSS-VASQUEZ,

Defendant - Appellant.

No. 06-10115

D.C. No. CR-05-00138-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted July 9, 2007**

Before: LEAVY, THOMAS, and BERZON, Circuit Judges.

Carlos Andres Coss-Vasquez appeals from the 77-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

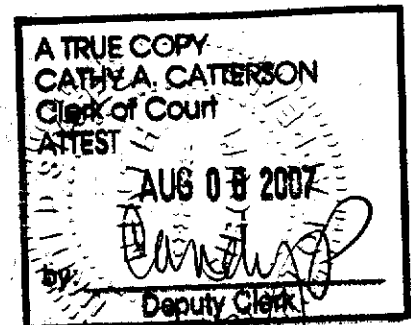
** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Coss-Vasquez contends that the district court plainly erred by concluding that his prior California conviction for throwing a substance at a vehicle was a “crime of violence” pursuant to USSG §4B1.2. Because we conclude that Cal.Veh.Code § 23110(b) contains as one of its elements the use of physical force against another, we reject this contention. *See United States v. Grajeda-Ramirez*, 348 F.3d 1123, 1125 (9th Cir. 2003).

Coss-Vasquez also contends that the district court erred by failing to depart downward based on over-representation of his criminal history and cultural assimilation. Because Coss-Vasquez failed to raise the issue of over-representation of criminal history before the district court, it is deemed waived. *See United States v. Quesada*, 972 F.2d 281, 283-84 (9th Cir. 1992). A review of the record establishes that the district court took into account the appropriate sentencing factors, including cultural assimilation, and that the sentence imposed is not unreasonable. *See United States v. Plouffe*, 445 F.3d 1126, 1131 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

AFFIRMED.



INTERNAL USE ONLY: Proceedings include all events.
06-10115 USA v. Coss-Vasquez

UNITED STATES OF AMERICA
Plaintiff - Appellee

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