

DEC 18 2007

CATHY A. CATTERSON, 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NOT FOR PUBLICATION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.

DAGOBERTO LUNA-MARTINEZ,

Defendant - Appellant.

No. 05-50354

D.C. No. CR-04-02114-IEG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Irma E. Gonzalez, Chief District Judge, Presiding

Submitted December 3, 2007**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Dagoberto Luna-Martinez appeals from the 37-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United

* 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).

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

Luna-Martinez contends that the district court erred by enhancing his sentence. Specifically, he asserts that his 2003 and 2004 removals, which were executed pursuant to reinstated removal orders entered by an immigration official, were unlawful and cannot satisfy either the removal requirement of 8 U.S.C. § 1326(b), or the deportation requirement of U.S.S.G. § 2L1.2(b)(1). This contention is foreclosed. *See United States v. Diaz-Luevano*, 494 F.3d 1159, 1161-62 (9th Cir. 2007) (per curiam).

AFFIRMED.