

JAN 24 2008

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>OSCAR WILLIAM CARRILLO-TURCIOS,</p> <p>Defendant - Appellant.</p>
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No. 07-50134

D.C. No. CR-06-00633-GHK-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. King, District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O’SCANNLAIN, and PAEZ, Circuit Judges.

Oscar William Carrillo-Turcios appeals from the 46-month sentence imposed following his guilty-plea conviction for illegal reentry after deportation,

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

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

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

Carrillo-Turcios contends that the district court erred when it found that he had maintained continuous physical presence in the United States between May 2001 and August 2006, and that his 1992 and 1993 convictions could therefore be considered in calculating the proper criminal history category. We disagree. The Government submitted a significant amount of evidence, all of it undisputed, that Carrillo-Turcios remained in the United States for the entirety of the period in question. Because, we are not left with a “definite and firm conviction that a mistake has been committed,” we conclude that the district court did not clearly err. *See Easley v. Cromartie*, 532 U.S. 234, 242 (2001).

AFFIRMED.