

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 21 2008

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROSA MARIA JIMENEZ-GUDINO,

Defendant - Appellant.

No. 07-50175

D.C. No. CR-05-01981-BEN-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Argued and Submitted July 15, 2008
Pasadena, California

Before: SILVERMAN, RAWLINSON, and M. SMITH, Circuit Judges.

Defendant-Appellant Rosa Maria Jimenez-Gudino appeals her conviction for being a deported alien found in the United States, a violation of 8 U.S.C. § 1326.

We have jurisdiction to hear this case under 18 U.S.C. § 1291. Because the parties are familiar with the facts, we do not recount them here.

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

The contested findings and conclusions were hearsay inadmissible against a defendant in a criminal case under Federal Rule of Evidence 803(8)(B). *See United States v. Orellana-Blanco*, 294 F.3d 1143, 1150 (9th Cir. 2002) (excluding “subjective observations, summaries, opinions and conclusions of law enforcement personnel”). Their admission, however, was more probably harmless than not because, even with that evidence excluded, there was sufficient evidence for the jury to have found beyond a reasonable doubt that Jimenez-Gudino is an alien. *See United States v. Freeman*, 498 F.3d 893, 905 (9th Cir. 2007).

AFFIRMED.