

DEC 29 2008

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

JOSE GUADALUPE DIAZ-RAMOS,

Defendant - Appellant.

No. 08-30051

D.C. No. CR-06-02153-EFS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Jose Guadalupe Diaz-Ramos appeals from the district court's denial of his motion to dismiss the indictment. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* 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).

Diaz-Ramos was indicted for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326. He contends that the district court erred when it denied his motion to dismiss because he was previously deported under an incorrect alien number which invalidated his prior deportation. Because Diaz-Ramos did not suffer prejudice as a result of being deported under an incorrect number, his contention fails. *See United States v. Muro-Inclan*, 249 F.3d 1180, 1185 (9th Cir. 2001).

AFFIRMED.