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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. SERGIO ORTIZ VILLA, Defendant - Appellant.	No. 07-50426 D.C. No. CR-07-00196-JSL MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Sergio Ortiz Villa appeals from the 103-month sentence imposed following his guilty-plea conviction for being an alien found in the United States after

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* 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).

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

Ortiz Villa contends that the district erred by failing to resolve, in accordance with Federal Rule of Criminal Procedure 32(i)(3)(B), his objection to the Presentence Report ("PSR") regarding the date he reentered the United States,. We agree. The record reflects that the district court failed to resolve Ortiz Villa's objection to the date of his reentry into the United States, or clearly state that the disputed date would not be taken into account in determining Ortiz Villa's sentence, as required by Rule 32. *See United States v. Carter*, 219 F.3d 863, 866-67 (9th Cir. 2000). Moreover, in light of the emphasis that the district court placed upon Ortiz Villa's immigration history at sentencing, as well as the district court's specific reference to the length of time that Ortiz Villa had been back in the United States prior to his arrest, we cannot conclude that Ortiz Villa's objection "had no relevance to the district court's determination of the prison time of his sentence," such that Rule 32(i)(3)(B) was inapplicable. *Cf. United States v. Saeteurn*, 504 F.3d 1175, 1179 (9th Cir. 2007).

We also agree with Ortiz Villa's contention that the district court erred by failing to properly resolve his objection to the PSR regarding his alleged

statements to police at the time of his January 2007, arrest. *See Carter*, 219 F.3d at 866-67; *cf. Saeteurn*, 504 F.3d at 1179.

Because we must remand for a full resentencing, *see Carter*, 219 F.3d at 866, we do not reach Ortiz Villa's remaining contentions.

VACATED and REMANDED.