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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NOT FOR PUBLICATION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>RAMON AHUMADA-REAL,</p> <p>Defendant - Appellant.</p>
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No. 08-10217

D.C. No. 2:08-cr-00080-EHC-1

MEMORANDUM *

Appeal from the United States District Court
for the District of Arizona
Earl H. Carroll, District Judge, Presiding

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Ramon Ahumada-Real appeals from the 33-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C.

* 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).

§ 1291, and we affirm.

Ahumada-Real contends that the district court erred when it determined that his prior conviction for attempted possession or purchase for sale of cocaine, in violation of California Health and Safety Code § 11351, is a drug trafficking offense as defined by comment note (1)(B)(iv) of U.S.S.G. § 2L1.2. We are precluded from reaching the merits of this claim by the valid appeal waiver. *See United States v. Nunez*, 223 F.3d 956, 958 (9th Cir. 2000); *see also United States v. Jacobo Castillo*, 496 F.3d 947, 957 (9th Cir. 2007) (en banc).

AFFIRMED.