

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 18, 2013

Lyle W. Cayce
Clerk

No. 13-40123

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JUAN ANTONIO LINAREZ JEREZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:12-CR-552-1

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

Juan Antonio Linarez Jerez appeals his guilty-plea conviction and 30-month sentence for being found illegally in the United States after having previously been deported, in violation of 8 U.S.C. § 1326. The district court enhanced Linarez Jerez's sentence based upon its finding that his prior California conviction for lewd acts with a child under the age of 14 was a conviction for a crime of violence under U.S.S.G. § 2L1.2(b)(1)(A). Linarez Jerez

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 13-40123

argues that the offense for which he was convicted did not qualify as a crime of violence because the statute under which he was convicted was overly broad.

Linarez Jerez did not object on this basis in the district court. Accordingly, we review for plain error only. *See United States v. Morales-Mota*, 704 F.3d 410, 411-12 (5th Cir.), *cert. denied*, 133 S. Ct. 2374 (2013). In 2006, Linarez Jerez was convicted under CAL. PENAL CODE ANN. § 288(a). Under a common sense approach, his conviction was for the enumerated offense of sexual abuse of a minor and, accordingly, a crime of violence under § 2L1.2(b)(1)(A)(ii). *See* § 2L1.2, comment (n.1(b)(iii)); *United States v. Izaguirre-Flores*, 405 F.3d 270, 275 (5th Cir. 2005); *United States v. Zavala-Sustaita*, 214 F.3d 601, 603-04 (5th Cir. 2000). Linarez-Jerez cannot demonstrate that the district court committed a clear or obvious error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

The judgment of the district court is AFFIRMED.