

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1175

United States of America,

Appellee,

v.

Javier Torres-Castro,

Appellant.

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Appeal from the United States
District Court for the Western
District of Arkansas.

[UNPUBLISHED]

Submitted: September 2, 2003

Filed: September 9, 2003

Before WOLLMAN, FAGG, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Javier Torres-Castro appeals the sentence the district court* imposed on his guilty plea to illegal reentry following conviction for an aggravated felony and deportation, in violation of 8 U.S.C. § 1326(a) and (b). Torres-Castro now argues for the first time that the district court improperly enhanced his base offense level under U.S.S.G. § 2L1.2(b)(1)(A)(ii) (16-level increase if defendant previously was deported after felony crime-of-violence conviction). We disagree. The district court did not commit plain error because Torres-Castro's earlier Arkansas conviction for

*The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

third degree domestic battery qualified as a felony crime of violence. See Ark. Code Ann. §§ 5-26-305 (Michie 1997 & Supp. 2003); United States v. Montanye, 996 F.2d 190, 192 (8th Cir. 1993) (en banc) (standard of review). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.