

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ANTONIO REYES-PACHECO, aka

Antonio Reyel6checoCA,

D

No. 00-50409

D.C. No.
CR-00-00241-

RSWL-1

Olivia W. Karlin, Deputy Federal Public Defender, Los Angeles, California, for the defendant-appellant.

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Jeremy D. Matz, Assistant United States Attorney, Los Angeles, California, for the plaintiff-appellee.

OPINION

GOULD, Circuit Judge:

Antonio Reyes-Pacheco appeals his seventy-month sentence for being an illegal alien found in the United States after

offense.

Thereafter, the United States Probation Office prepared a Presentence Report ("PSR") that: (1) calculated Reyes-Pacheco's total adjusted offense level as 21; (2) assessed three criminal history points under section 4A1.1 of the Sentencing Guidelines because Reyes-Pacheco committed the "instant

not "found in" the country until February 24, 2000; (3) he was charged with and pled guilty to being "found in " the United States in the year 2000, not to "entering" the country in the year 1996; (4) by using April 11, 1996 (instead of February 24, 2000) as the offense date for sentencing purposes, the dis-ited

om plx ff"harumsen can notjustify relief.s

