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COUNSEL

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a single count of violating 8 U.S.C. §§ 1326(a) and (b)(2). In the indictment, the government alleged that he had been found in the United States in February 1999. Maria-Gonzalez pleaded guilty on July 17, 2000. In doing so, he neither admitted nor contested the fact that he had a prior aggravated felony conviction. The district court advised him of the potential sentence enhancements that accompanied a finding of a prior felony or aggravated felony conviction.

At the time Maria-Gonzalez was arrested in 1993, his conviction for receipt of stolen property was not classified as an aggravated felony. 8 U.S.C. § 1101(a)(43)(G) (1994) (defining aggravated felony as theft or burglary convictions for which a term of imprisonment of at least five years is imposed). In 1996, as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), the section defining the term "aggravated felony" was expanded to include receipt of stolen property, the crime for which Maria-Gonzalez had been convicted. 8 U.S.C. § 1101(a)(43)(G) (1994 Supp. V) (defining aggravated felony to include all convictions for theft or burglary, including receipt of stolen property, for which a term of imprisonment of at least one year is imposed).

Before sentencing, a United States probation officer prepared a Presentence Investigative Report (PIR). In the PIR, the probation officer classified Maria-Gonzalez's 1992 conviction for receipt of stolen property as an aggravated felony. Because of that classification, the probation officer recommended a 16-level enhancement pursuant to Sentencing Guidelines § 2L1.2(b)(1)(A) (1999). In a pre-sentencing memorandum, Maria-Gonzalez challenged this recommendation. He argued that, because his 1992 conviction was not classified as an aggravated felony at the time of his 1993 deportation, the recommended sentence enhancement was improper. He also argued that in order to apply the 16-level enhancement, the government was required to prove his prior conviction beyond a reasonable doubt. On October 31, 2000,

the district court adopted the recommendation of the probation officer, applied the 16-level enhancement and imposed the sentence Maria-Gonzalez challenges in this appeal.

II.

We review de novo whether the aggravated felony provisions of the Sentencing Guidelines apply to a conviction. United States v. Ceron-Sanchez, 222 F.3d 1169, 1172 (9th Cir. 2000). We also review de novo the district court's interpretation of the Sentencing Guidelines,

that was not, at that time, classified as an aggravated felony. The defendant was deported in 1988 and re-entered illegally in 1994. In 1996, the defendant's 1986 crime was classified by IIRIRA as an aggravated felony. In 1998, he pleaded guilty to being a previously deported alien found in the United States in violation of 8 U.S.C. § 1326(a). The district court determined that his prior conviction was an aggravated felony

felony "shall apply to actions taken on or after the date of the

§ 1326(b)] [sic] for an illegal entry that occurs on or after the

[4]

V.

The judgment of conviction entered by the district court