

**FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

RAMON MONTEL-BARRAZA,





old issue of whether Montiel's conviction constituted an aggravated felony. Matsuk v. INS

ments of the underlying offense. See *Almendarez-Torres v. United States*, 523 U.S. 224 (1998) (concluding that a penalty provision that simply authorizes a court to increase the sentence for a recidivist does not define a separate crime). Accordingly, our analysis in