

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**

2580





## BACKGROUND

sidered felonies under Arizona law.

the district court's decision that Robles-Rodriguez's prior convictions are aggravated felonies trigger-ing the 16-level sentenci

A. Aggravated felonies

"Aggravated felony" is a term of art created by Con-

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gate a rather confusing maze of statutory cross-references. The definition of "aggravated felony" at 8 U.S.C. § 1101(a)(43) contains a list of qualifying offenses, including "a drug trafficking crime (as defined in section 924(c) of Title 18)." 8 U.S.C. § 1101(a)(43)(B) (1994). Section 924(c) of Title 18, in turn, defines "drug trafficking crime" as "any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.)" and two other statutes not relevant here. 18 U.S.C. § 924(c)(2) (1994). Finally, the Controlled Substances Act defines "felony" as "any Federal or State offense classified by applicable Federal or State law as a felony," 21



convicting jurisdiction labels it as such, without regard to the

United States, 59 F.2d 419, 419 (3d Cir. 1932); cf. Francis v. Reno, 269 F.3d 162, 167 (3d Cir. 2001) ("[F]elonies had historically been defined as those crimes that are punishable by at least a year in prison."); United States v. Burston, 159 F.3d 1328, 1335 n.13 (11th Cir. 1998) (citing Fed. R. Evid. 609(a)(1) advisory committee's note) (the "traditional definition of a felony" is an offense "punishable by death or imprisonment in excess of one year"); United States v. Indelicato, 97 F.3d 627, 631 (1st Cir. 1996) ("[T]he traditional distinction

ony under state law, but would have been only a misdemeanor if charged under federal law, was still an "aggravated felony" within the federal sentencing scheme. Although Ibarra-Galindo is distinguishable from the present case because the state offense at issue there was clearly a felony -- it was

requires that we disregard Arizona's substantive policy judgment in 6 or of an outdated and meaningless label.-