

## **APPENDIX**

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**NOT FOR PUBLICATION**

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAR 13 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE GUADALUPE ZEPEDA-RAMIREZ,  
AKA Jose Guadalupe Zepeda Ramirez,

Defendant - Appellant.

No. 16-50369

D.C. No. 2:16-cr-00226-R-2

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Argued and Submitted March 8, 2018  
Pasadena, California

Before: REINHARDT and NGUYEN, Circuit Judges, and SIMON,\*\* District Judge.

Appellant Jose Guadalupe Zepeda-Ramirez appeals the jury's verdict and the district court's order denying his motion for acquittal. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable Michael H. Simon, United States District Judge for the District of Oregon, sitting by designation.

1. We review the district court's denial of a motion for acquittal de novo.

*United States v. Mincoff*, 574 F.3d 1186, 1191–92 (9th Cir. 2009) (citation omitted). In reviewing the motion and the jury's verdict, we consider the evidence in the light most favorable to the prosecution to determine whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* at 1192 (citation omitted). Here, Zepeda-Ramirez and one other person traveled to the United States from Mexico on a small boat (“panga”) filled with 1,664 kilograms of marijuana. Zepeda-Ramirez knew the cargo was marijuana and he helped steer the boat to the United States. Experienced law enforcement officers testified that drug smuggling operations from Mexico to the United States by panga require at least two people, and the panga Zepeda-Ramirez arrived in contained equipment typically used by smugglers to coordinate with partners to pick up the cargo after making landfall. A conversation between Zepeda-Ramirez and the other occupant of the boat was covertly recorded after they were arrested, in which Zepeda-Ramirez made statements from which the jury could have inferred that he was involved in the smuggling operation and trying to concoct the best possible exculpatory story. This evidence was sufficient for a rational jury to convict Zepeda-Ramirez for both conspiracy to possess marijuana with intent to distribute and for possession with intent to distribute marijuana.

**AFFIRMED.**

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAY 1 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE GUADALUPE ZEPEDA-RAMIREZ,  
AKA Jose Guadalupe Zepeda Ramirez,

Defendant - Appellant.

No. 16-50369

D.C. No. 2:16-cr-00226-R-2  
U.S. District Court for the Central  
District of California,  
Los Angeles

ORDER

Before: REINHARDT\* and NGUYEN, Circuit Judges, and SIMON, \*\* District Judge.

The panel voted to deny the petition for panel rehearing and rehearing en banc. Judge Reinhardt and Judge Nguyen voted to deny the petition, and Judge Simon voted to deny panel rehearing and recommended denying rehearing en banc. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for panel rehearing and rehearing en banc is DENIED.

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\* Prior to his death, Judge Reinhardt fully participated in this case and cast a vote on whether to grant or deny the petition for panel rehearing and rehearing en banc.

\*\* The Honorable Michael H. Simon, United States District Judge for the District of Oregon, sitting by designation.

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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JOSE GUADALUPE ZEPEDA-RAMIREZ,

Petitioner,

- v -

UNITED STATES OF AMERICA,

Respondent.

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PROOF OF SERVICE

I, Shaun Khojayan, do swear or declare that on this date, July 30, 2018, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI and the attached Appendix on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail, properly addressed with first-class postage prepaid to:

Solicitor General of the United States  
Room 5614, Department of Justice  
950 Pennsylvania Ave.,  
N.W., Washington, D. C. 20530-0001

Cassie D. Palmer, Assistant United States Attorney  
Central District of California  
312 N. Spring Street  
Los Angeles, CA 90012  
&

Jose Guadalupe Zepeda-Ramirez  
Fraccionamiento Cucapah  
#528 Calle Ojos Negros  
Tecate, Baja Mexico

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 30, 2018

  
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SHAUN KHOJAYAN  
Counsel for Petitioner  
JOSE GUADALUPE ZEPEDA-RAMIREZ