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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. ALBERTO QUIROZ-MENDEZ, Defendant - Appellant.	No. 09-30053 D.C. No. 4:08-CR-00063-SEH MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted October 13, 2009**

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Alberto Quiroz-Mendez appeals from his jury-trial conviction for conspiracy to possess methamphetamine with intent to distribute, possession with intent to

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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distribute methamphetamine, and distribution of methamphetamine, in violation of 18 U.S.C. § 2, and 21 U.S.C. §§ 841(b)(1)(A) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *see United States v. Howell*, 231 F.3d 615, 629 (9th Cir. 2000), and we affirm.

Quiroz-Mendez contends the district court erred by denying his request for a "mere presence" jury instruction. The district court did not err because the government presented ample evidence that Quiroz-Mendez was an active participant in the crimes, and Quiroz-Mendez does not dispute that the jury was properly instructed on all elements of the crimes. *See id.*

AFFIRMED.