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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. GABE DRAPEL, Defendant - Appellant.	No. 09-10391 D.C. No. 2:07-cr-00007-KJD-RJJ-1 MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Kent J. Dawson, District Judge, Presiding

Argued and Submitted September 10, 2010
San Francisco, California

Before: B. FLETCHER, TALLMAN and RAWLINSON, Circuit Judges.

Appellant-Defendant Gabe Drapel (Drapel) challenges the district court's decision denying his motion to suppress. Drapel specifically contends that the district court clearly erred in its factual finding that the police did not illegally search his rented storage space prior to obtaining a warrant, and that the district

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

court failed to conduct a *de novo* review of the magistrate judge's report and recommendation.

Under the clearly erroneous standard, an appellate court "must reverse if the district court's determination is illogical or implausible or lacks support in inferences that may be drawn from the facts in the record." *United States v. Hinkson*, 585 F.3d 1247, 1261 (9th Cir. 2009) (en banc) (citations, emphasis and internal quotation marks omitted). At the hearing on the motion to suppress, the detectives gave conflicting testimony regarding the time Drapel was encountered immediately preceding his arrest. The district court adopted the timeline that foreclosed Drapel's contention that the police searched his unit prior to obtaining a warrant. The district court's choice between two permissible views of the evidence cannot be clearly erroneous. *See United States v. Garcia*, 135 F.3d 667, 671 (9th Cir. 1998).

Pursuant to 28 U.S.C. § 636, a district court is required to review a Magistrate Judge's Report and Recommendations *de novo*. *See* 28 U.S.C. § 636(b)(1)(C). In this case, the district court indicated that it "ha[d] conducted a *de novo* review of the record" and found "that the Report and Recommendation of the United States Magistrate Judge entered May 18, 2007, should be adopted and affirmed." This statement is sufficient to "satisf[y] the de novo review standard of

28 U.S.C. § 636." *N. Am. Watch Corp. v. Princess Ermine Jewels*, 786 F.2d 1447, 1450 (9th Cir. 1986).

AFFIRMED.