

MAR 09 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO YLIZ AGUIRRE,

Defendant - Appellant.

No. 10-50226

D.C. No. 3:08-cr-03058-DMS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Alejandro Yliz Aguirre appeals from his conviction for various drug offenses. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Aguirre contends that the district court's instruction to the grand jury violated the Fifth Amendment by improperly limiting the grand jury's discretion.

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

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

This contention fails because the instructions here substantially mirrored those approved in *United States v. Cortez-Rivera*, 454 F.3d 1038, 1040 (9th Cir. 2006), and *United States v. Navarro-Vargas*, 408 F.3d 1184 (9th Cir. 2005) (en banc).

AFFIRMED.