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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p>v.</p> <p>PEDRO JOSE GARCIA,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 10-10599

D.C. No. 2:08-cr-00353-RLH-RJJ-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, Senior District Judge, Presiding

Submitted December 6, 2011**
San Francisco, California

Before: TROTT and BEA, Circuit Judges, and PALLMEYER, District Judge.***

Pedro Garcia appeals the denial of his suppression of evidence motion

* 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).

*** The Honorable Rebecca R. Pallmeyer, District Judge for the U.S. District Court for Northern Illinois, sitting by designation.

following which he was convicted by a jury of (1) being a felon in possession of a firearm and (2) possession of a controlled substance.

During a lawful traffic stop, Officer Sutton saw from outside Garcia's car a clear baggy containing a crystalline substance resting on the car's center console. Garcia does not dispute that the baggy was in Officer Sutton's plain view. The court concluded that Officer Sutton's determination that the baggy contained a controlled substance was reasonable for someone with his experience and training. The record amply supports the court's conclusion, allowing for a search of Garcia's car pursuant to the "automobile exception." California v. Carney, 471 U.S. 386, 391 (1985); Carroll v. United States, 267 U.S. 132 (1925). Thus, Garcia's motion to suppress was properly denied.

The court's credibility findings on other issues are not relevant to the court's findings on this issue.

AFFIRMED.