

APR 17 2012

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES N. SCHWEDA, AKA Bud
Weather,

Defendant - Appellant.

No. 10-30377

D.C. No. 2:09-cr-00335-RSL-1
Western District of Washington,
Seattle

ORDER

Before: GRABER, FISHER, and RAWLINSON, Circuit Judges.

The memorandum disposition filed on February 21, 2012, is hereby amended so that the paragraph numbered 3 reads:

3. The evidence was sufficient to support Schweda's convictions. The jury was entitled to credit the testimony of Schweda's co-conspirators, who testified that Schweda sold them substantial quantities of LSD, and sometimes fronted the LSD. *See United States v. Lindsey*, 634 F.3d 541, 552 (9th Cir.), *cert. denied*, 131 S. Ct. 2475 (2011) (recognizing that a reviewing court "cannot second-guess the jury's credibility assessments"); *see also United States v. Mincoff*, 574 F.3d 1186, 1193 (9th Cir. 2009) ("[E]vidence of fronting may support a conviction for conspiracy to distribute a controlled substance.").

With this amendment, James N. Schweda's petition for rehearing and suggestion for rehearing en banc, filed on March 20, 2012, are DENIED.

The suggestion for rehearing en banc was circulated to the full court, and no member of the court has requested an en banc hearing.

No further petitions for rehearing will be accepted.