

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 24 2012

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS RIVERA-ALVARADO,

Defendant - Appellant.

No. 10-10539

D.C. No. 2:09-cr-01114-GMS-5

MEMORANDUM*

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

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Argued and Submitted April 19, 2012
San Francisco, California

Before: SCHROEDER, THOMAS, and GRABER, Circuit Judges.

Defendant Jesus Rivera-Alvarado appeals his sentence following his convictions for conspiracy to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846; distribution and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841; possession of a firearm in furtherance of a drug-trafficking crime, in violation of

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

18 U.S.C. § 924(c); and being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g), 924(a). We affirm.

The district court did not err in admitting the jury verdict during the hearing under 21 U.S.C. § 851. We assume, without deciding, that the Federal Rules of Evidence apply to a hearing under 21 U.S.C. § 851. Federal Rule of Evidence 201(b)(2) permits a court to take judicial notice of a fact that "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Those requirements plainly were met here. Judicial notice of the verdict, as was requested by the government, was therefore proper.

AFFIRMED.