

SEP 21 2012

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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NOT FOR PUBLICATION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.

URIEL ULYSES RIVERA,

Defendant - Appellant.

No. 11-50319

D.C. No. 3:10-cr-03310-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, Chief Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Uriel Ulyses Rivera appeals from the 120-month sentence imposed following his guilty-plea conviction for conspiracy to import heroin, in violation of 21 U.S.C. §§ 952, 960, and 963. We have jurisdiction under 28 U.S.C. § 1291, and

* 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).

we affirm.

Rivera contends that the district court erred by imposing a 120-month mandatory minimum sentence following his guilty plea to conspiracy to import a controlled substance because he did not have knowledge that the controlled substance was heroin or of the quantity of heroin involved. As Rivera concedes, this argument is foreclosed by *United States v. Carranza*, 289 F.3d 634, 644 (9th Cir. 2002). We decline Rivera's request that we call for en banc review to reconsider our precedent on this issue.

AFFIRMED.