

AUG 21 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERICK DAVID MORALES,

Defendant - Appellant.

No. 12-10339

D.C. No. 2:10-cr-01706-GMS-1

MEMORANDUM*

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

Argued and Submitted August 14, 2013
San Francisco, California

Before: REINHARDT, NOONAN, and HURWITZ, Circuit Judges.

Erick Morales appeals his conviction of one count of being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291 and affirm.

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

Morales argues that there was insufficient evidence for the jury to find that he constructively possessed the firearm and ammunition. He testified that he did not have control over the residence in which the items were seized because it was owned by his parents, who also lived there. Morales claimed that his father was going to use the gun recreationally, and that he was never at the house when the gun was present.

However, the firearm - which contained a loaded magazine - was found next to Morales's bed, in a room he occupied exclusively. In a bedside dresser, police officers found two boxes and a Ziploc bag full of ammunition compatible with the firearm; in his closet, they found another loaded magazine compatible with the firearm and a copy of a bill of sale matching the firearm. Morales's fingerprints were on the Ziploc bag and one of the boxes of ammunition. "[U]nder the highly deferential standard of review there was sufficient evidence to sustain the verdict." *United States v. Terry*, 911 F.2d 272, 278 (9th Cir. 1990).

AFFIRMED.