

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 14 2015

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO RUIZ-PALMA,

Defendant - Appellant.

No. 12-10290

D.C. No. 4:09-cr-02623-BCC-
GEE-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, Chief District Judge, Presiding

Submitted January 12, 2015**
San Francisco, California

Before: WALLACE, M. SMITH, and FRIEDLAND, Circuit Judges.

Mario Ruiz-Palma appeals from his conviction following a jury trial for possession of marijuana with intent to distribute. The Government concedes error with regard to certain testimony and statements in closing argument that referred to Ruiz-Palma's post-arrest silence, but it contends such error was harmless. We

* 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).

assume that Ruiz-Palma's claim of error was preserved but conclude that it is "beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained." *Chapman v. California*, 386 U.S. 18, 24 (1967). The evidence overwhelmingly established Ruiz-Palma's guilt. *Cf. Illinois v. Wardlow*, 528 U.S. 119, 124-25 (2000) (unprovoked, headlong flight upon noticing law enforcement suggests wrongdoing); *Maryland v. Pringle*, 540 U.S. 366, 373 (2003) (drug activity in a car is an enterprise to which a guilty person "would be unlikely to admit an innocent person with the potential to furnish evidence against him").

AFFIRMED.