

SEP 01 2015

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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NOT FOR PUBLICATION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.

GERARDO BARRAZA ZAZUETA, a.k.a.
Joel Rivera,

Defendant - Appellant.

No. 14-30252

D.C. No. 2:13-cr-02081-WFN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, District Judge, Presiding

Submitted August 25, 2015**

Before: McKEOWN, CLIFTON, and HURWITZ, Circuit Judges.

Gerardo Barraza Zazueta appeals from the district court's judgment and challenges the 51-month sentence imposed following his jury-trial conviction for

* 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).

being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Zazueta contends that the district court erred by imposing a sentencing enhancement for possession of a firearm in connection with another felony offense under U.S.S.G. § 2K2.1(b)(6)(B) without sua sponte holding an evidentiary hearing. We review for plain error, *see United States v. Berry*, 258 F.3d 971, 976 (9th Cir. 2001), and find none. No evidentiary hearing was required because the district court allowed Zazueta to challenge the enhancement orally and through briefing and affidavits. *See id.*

Zazueta also contends that there was insufficient evidence that he possessed a firearm in connection with drug trafficking. We review for clear error the district court's finding that Zazueta possessed the firearm in connection with another felony offense. *See United States v. Polanco*, 93 F.3d 555, 564 (9th Cir. 1996). The district court did not clearly err; agents located the firearm in close proximity to a bag containing 28 grams of methamphetamine, a digital scale, body armor, and a pair of pants containing Zazueta's identification. *See U.S.S.G. § 2K2.1 cmt. n.14(B); Polanco*, 93 F.3d at 567.

AFFIRMED.