

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 6 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-50294

Plaintiff-Appellee,

D.C. No. 3:16-cr-00375-LAB

v.

RAMON URBINA,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Larry Alan Burns, District Judge, Presiding

Submitted February 15, 2018**
Pasadena, California

Before: MCKEOWN and WARDLAW, Circuit Judges, and DONATO,*** District
Judge.

Ramon Urbina appeals his jury conviction for importation of
methamphetamine on the ground that the district court improperly admitted

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

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable James Donato, United States District Judge for the
Northern District of California, sitting by designation.

evidence of three text messages found on his phone over his relevance objection.

We have jurisdiction pursuant to 28 U.S.C. § 1291, and affirm.

While the relevance of the three text messages was debatable, we find no abuse of discretion by the district court. *United States v. Rendon-Duarte*, 490 F.3d 1142, 1145 (9th Cir. 2007). The district court undertook a considered balancing of the probative value of the proffered evidence against its potential for unfair prejudice to the defendant. Even if the district court's determinations were in error, such error was harmless. The jury was presented with overwhelming evidence of Urbina's guilt, including the approximately fifteen pounds of methamphetamine that was found in the car he drove into the United States from Mexico at the time of his arrest. Consequently, the alleged error did not materially affect the verdict. *United States v. Mitchell*, 376 F. App'x. 749, 750 (9th Cir. 2010).

AFFIRMED.