

FILED

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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NOT FOR PUBLICATION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.

NIGEL KADE PETERS,

Defendant-Appellant.

No. 18-30006

D.C. No.
1:16-cr-00281-BLW-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief Judge, Presiding

Submitted February 5, 2019**
Seattle, Washington

Before: IKUTA and CHRISTEN, Circuit Judges, and CHOE-GROVES, *** Judge.

Nigel Peters appealed his conviction on one count of possession with intent to distribute 100 grams or more of heroin, in violation of 21 U.S.C. § 841(a)(1) and

* 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 Jennifer Choe-Groves, Judge for the United States Court of International Trade, sitting by designation.

(b)(1)(B), and one count of conspiracy to distribute 100 grams or more of heroin, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846. There was sufficient evidence when viewed in the light most favorable to the prosecution, including detailed and non-rebutted testimony by Peters's wife, for a rational juror to find beyond a reasonable doubt that Defendant had the intent to distribute at least 100 grams of heroin. See United States v. Nevils, 598 F.3d 1158, 1164 (9th Cir. 2010) (citing Jackson v. Virginia, 443 U.S. 307 (1979)).

Nigel Peters also appealed the district court's calculation of drug quantities for sentencing purposes pursuant to U.S.S.G. §§ 1B1.3 and 2D1.1. There was no clear error in the district court's finding that Peters was responsible for distributing 800 grams of heroin. The district court correctly identified the proper Sentencing Guideline, and there was no abuse of discretion in its application. See United States v. Gasca-Ruiz, 852 F.3d 1167, 1170 (9th Cir. 2017).

AFFIRMED.