

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 10 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 19-10102

Plaintiff-Appellee,

D.C. No.

5:10-cr-00301-BLF-4

v.

JAVIER GARCIA,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the Northern District of California  
Beth Labson Freeman, District Judge, Presiding

Argued and Submitted March 2, 2020  
San Francisco, California

Before: SILER,\*\* WARDLAW, and M. SMITH, Circuit Judges.

Javier Garcia appeals from the district court's judgment revoking his supervised release stemming from his 2011 conviction for conspiracy to distribute

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

\*\* The Honorable Eugene E. Siler, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

cocaine and imposing a term of imprisonment.<sup>1</sup> We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Garcia's briefs on appeal discuss whether evidence that formed the basis of the district court's decision to revoke his supervised release should have been excluded as the fruit of an unlawful search of his home. However, as the district court recognized, the exclusionary rule does not apply in revocation proceedings. *See United States v. Hebert*, 201 F.3d 1103, 1104 (9th Cir. 2000) (per curiam). Garcia has not disputed this point on appeal. Thus, whether the evidence was the product of an unlawful search has no bearing on whether it could be considered by the district court for purposes of finding that Garcia violated the conditions of his supervised release.

**AFFIRMED.**

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<sup>1</sup> We address Garcia's appeal from his separate criminal conviction in a concurrently filed opinion.