

FILED

OCT 01 2007

**CATHY A. CATTERSON, 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NOT FOR PUBLICATION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.

JOSE JESUS ALVAREZ,

Defendant - Appellant.

No. 06-30628

D.C. No. CR-05-02032-FVS/CI

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE JESUS ALVAREZ,

Defendant - Appellant.

No. 06-30629

D.C. No. CR-05-02034-FVS

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted September 24, 2007**

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Jose Jesus Alvarez appeals from an order denying his motion to dismiss his indictments for conspiracy to distribute a controlled substance, in violation of 21 U.S.C. § 846, and possession of a stolen firearm, in violation of 18 U.S.C. § 922(j). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

Alvarez contends that the district court erred by not dismissing the indictments under the Speedy Trial Act, 18 U.S.C. § 3161(b), due to collusion between state and federal law enforcement officials to hold him in state custody until the federal charges were filed. We review factual findings concerning the Speedy Trial Act for clear error and questions of law regarding its interpretation *de novo*. *United States v. Benitez*, 34 F.3d 1489, 1493 (9th Cir. 1994).

Because Alvarez failed to offer any evidence of actual collusion between the state and federal officials to deprive him of his federal procedural rights, the district court did not err by denying Alvarez's motion to dismiss the indictments. *See United States v. Michaud*, 268 F.3d 728, 735 (9th Cir. 2001).

AFFIRMED.

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