

FEB 13 2008

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NOT FOR PUBLICATION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.

FAUSTO ROBLES-PACHECO,

Defendant - Appellant.

No. 07-10163

D.C. No. CR-06-00145-HDM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted** February 11, 2008
San Francisco, California

Before: NOONAN, THOMAS, and BYBEE, Circuit Judges.

The facts of this case are known to the parties and need not be repeated here. Fausto Robles-Pacheco appeals the district court's denial of his motion under FED. R. CRIM. P. 29(a) for a judgment of acquittal on three counts of violating 21 U.S.C.

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

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

§ 841(a). He claims that the evidence was insufficient to establish that he possessed with an intent to distribute the drugs seized in an apartment leased to him.

The evidence presented to the jury was more than adequate to permit a reasonable trier of fact to find beyond a reasonable doubt that Robles-Pacheco committed all essential elements of the three counts of the indictment. *United States v. Terry*, 911 F.2d 272, 278 (9th Cir. 1990); *see also Jackson v. Virginia*, 443 U.S. 307, 319 (1979). The lease agreement, utility bills, money orders paying rent for the apartment where the drugs were seized, and eye witness testimony, among other evidence presented at trial, were sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that Robles-Pacheco had dominion and control over the apartment and the drugs therein. *United States v. Medrano*, 5 F.3d 1214, 1217 (9th Cir. 1993). The manner of packaging and quantity of drugs and currency found were sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that the drugs were intended for distribution.

The judgment of the district court is AFFIRMED.