

JAN 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MIGUEL ANGEL AGUINIGA,

Defendant - Appellant.

No. 08-50039

D.C. No. CR-07-00850-BTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted January 14, 2009**
Pasadena, California

Before: KOZINSKI, Chief Judge, TROTT and KLEINFELD, Circuit Judges.

The district court did not abuse its discretion when it admitted Treasury Enforcement Communications System (TECS) records as evidence. TECS records

* 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).

are public records. United States v. Orozco, 590 F.2d 789, 794 (9th Cir. 1979).

The TECS records were relevant to establish Aguiniga's dominion over the vehicle he used to smuggle drugs, his prior knowledge, and to rebut the testimony of defense witnesses. The use of TECS records to rebut testimony presented on Aguiniga's behalf was not an abuse of discretion. United States v. Sanchez-Robles, 927 F.2d 1070 (9th Cir. 1991). Nor was the district court's decision to admit demeanor evidence an abuse of discretion. See United States v. Romero-Avila, 210 F.3d 1017, 1023 (9th Cir. 2000).

AFFIRMED.