

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 23 2016

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

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

No. 15-30089

Plaintiff - Appellee,

D.C. No. CR-14-51-BLG-SPW

v.

MEMORANDUM*

CANDELARIO ALBERTO GARCIA,

Defendant - Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge

Argued and Submitted May 5, 2016
Portland, Oregon

Before: TALLMAN and HURWITZ, Circuit Judges and BATTAGLIA,** District Judge.

Candelario Alberto Garcia entered a conditional guilty plea to one count of possession with intent to distribute methamphetamine in violation of 21 U.S.C. §

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

** The Honorable Anthony J. Battaglia, District Judge for the U.S. District Court for the Southern District of California, sitting by designation.

841(a)(1). He appeals the district court's denial of his motion to suppress evidence derived from a "knock and talk" encounter with police officers. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Garcia's position that he was seized from the moment he encountered the officers at his door is unavailing. The encounter in this case is virtually identical to the encounter in *United States v. Crapser*, which this Court found to be voluntary and consensual. 472 F.3d 1141, 1146 (9th Cir. 2007). The district court therefore correctly denied Garcia's motion.

AFFIRMED.