

JUL 17 2017

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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NOT FOR PUBLICATION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.

JOSEPH DEAN JAYNE, Jr.,

Defendant-Appellant.

No. 16-30147

D.C. No. 6:15-cr-00011-CCL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Charles C. Lovell, District Judge, Presiding

Submitted July 11, 2017\*\*

Before: CANBY, KOZINSKI, and HAWKINS, Circuit Judges.

Joseph Dean Jayne, Jr., appeals from the district court's judgment and challenges the 150-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute and 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 panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

methamphetamine, in violation of 21 U.S.C. § 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Jayne contends that the district court erred by imposing a two-level enhancement for his leadership role in the offense under U.S.S.G. § 3B1.1(c). We review a district court's determination that a defendant was an organizer or leader for purposes of applying a sentence enhancement for abuse of discretion. *See United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc). The undisputed facts in the presentence report reflect that Jayne procured the drugs from suppliers for others to transport and distribute, and had another co-conspirator act as his "muscle." This evidence supported a finding that Jayne had "the ability and influence necessary to coordinate the activities of others to achieve the desired result, whether or not [he had] a superior rank in a criminal hierarchy." *United States v. Doe*, 778 F.3d 814, 824 (9th Cir. 2015).

**AFFIRMED.**