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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>EUGENIO HAROS-GIRON,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 11-50563

D.C. No. 3:11-cr-01097-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Eugenio Haros-Giron appeals from the 60-month sentence imposed following his guilty-plea conviction for conspiracy to import marijuana, in violation of 21 U.S.C. §§ 952, 960, 963; and importation of marijuana and aiding

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

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

and abetting, in violation of 21 U.S.C. §§ 952, 960, and 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Haros-Giron contends that the district court erred by denying him relief under the safety valve provision of the Guidelines. *See* U.S.S.G. § 5C1.2. This contention fails. The record supports the district court's determination that Haros-Giron acted as a manager or supervisor during the commission of the offense. *See* U.S.S.G. § 3B1.1(b); *United States v. Egge*, 223 F.3d 1128, 1132 (9th Cir. 2000). Because Haros-Giron's aggravating role in the offense precludes the application of safety valve relief, the district court did not err. *See* U.S.S.G. § 5C1.2(a)(4).

AFFIRMED.