

NOT FOR PUBLICATION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>v.</p> <p>ULICES MONTIEL,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 13-50609

D.C. No. 3:13-cr-03044-LAB-1

MEMORANDUM*

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

Submitted August 31, 2015**
Pasadena, California

Before: GRABER, RAWLINSON, and WATFORD, Circuit Judges.

Defendant Ulices Montiel appeals from his conviction, after a jury trial, for transporting illegal aliens in violation of 8 U.S.C. § 1324(a)(1)(A)(ii). We affirm.

The sole question presented is whether Defendant’s confession was voluntary. We review de novo the conclusion of voluntariness, United States v.

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

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

Crawford, 372 F.3d 1048, 1053 (9th Cir. 2004) (en banc), but review the district court's underlying findings of fact for clear error, United States v. Gamez, 301 F.3d 1138, 1144 (9th Cir. 2002). We owe special deference to the trial court's credibility determinations. United States v. Nelson, 137 F.3d 1094, 1110 (9th Cir. 1998).

Here, the pivotal issue is whether Agent Hamilton induced Defendant to confess by promising him that, if he provided information, he would not be charged with a crime. During the drive from the border to El Centro, Defendant asked Hamilton if he could avoid being charged with a crime if he gave information; Hamilton replied that he would ask his boss. Defendant claimed that, after they arrived at the station, Hamilton left him alone for ten minutes, while parked in a secure area, after which Hamilton returned and asked Defendant, "You're ready to go home?" Hamilton denied that he ever left Defendant alone in the car, denied asking that question, and denied making any promise to Defendant. The district court believed Hamilton's version of events, after asking several follow-up questions and considering all the circumstances. We defer to the court's assessment of credibility and see no clear error in the court's resulting findings of fact.

Given those findings, on de novo review we conclude that the confession was voluntary. Indeed, apart from urging this court to reject Agent Hamilton's testimony, Defendant does not point to anything about the circumstances of the interrogation or about his own personal characteristics that would have rendered the confession involuntary.

AFFIRMED.