

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-2474

United States of America,

Appellee,

v.

Eduardo Hinojosa, also known as Lalo,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: December 14, 2001

Filed: January 17, 2002

Before McMILLIAN, JOHN R. GIBSON, and MAGILL, Circuit Judges.

PER CURIAM.

Eduardo Hinojosa was convicted by a jury of one count of conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and four counts of delivery of methamphetamine in furtherance of the conspiracy, in violation of 21 U.S.C. § 841(a)(1). The district court¹ sentenced Hinojosa to 292 months imprisonment. Hinojosa appeals his conviction, arguing that he is entitled to a new

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

trial because the district court abused its discretion in allowing the cross-examination of a defense witness and admission of impeaching rebuttal evidence. Hinojosa also argues that the district court erred in enhancing his sentence for obstruction of justice. For the reasons stated below, we affirm the judgment of the district court.

After a careful review of the record, we find that any error in the admission of evidence was harmless. See United States v. Capozzi, 883 F.2d 608, 616 (8th Cir. 1989) ("Reversal is warranted only where an abuse of discretion leads to prejudice." (quoting United States v. Lynch, 800 F.2d 765, 770 (8th Cir. 1986))). Hinojosa's jury trial lasted one week and included testimony from fourteen government witnesses from several law enforcement agencies including the FBI, ATF, DEA, and local law enforcement. We are unpersuaded that the admission of the challenged evidence was prejudicial.

Further, we find that the district court did not clearly err in enhancing Hinojosa's sentence for obstruction of justice. See United States v. Anderson, 68 F.3d 1050, 1055 (8th Cir. 1995) (standard of review). The district court credited the testimony of one of the threatened witnesses, and such credibility determinations are rarely disturbed on appeal. See United States v. Adipietro, 983 F.2d 1468, 1472 (8th Cir. 1993). We are unpersuaded that the district court's determination should be disturbed in this case.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.