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COUNSEL

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15 (or more) border agents working that day were, and he was resistant to discussing the possible locations of any sensing devices on or about the border. When Weiland was cross-examined, the district court did not require him to answer questions about sensor location because it deemed that information to be irrelevant in light of the fact that there was no evidence that Weiland had obtained any information from those devices, if any there were at Castellanos's point of entry.

No further evidence was submitted by either side about Castellanos's exact point of entry, the placement of sensing devices, or whether Castellanos had been under observation from the moment of his entry to the moment of his capture. Castellanos claimed, therefore, that he was entitled to an acquittal because the evidence was not sufficient to convict him. See

States v. Romo-Romo, 246 F.3d 1272, 1274 (9th Cir. 2001) (citation omitted). We review the district court's determination that a factual foundation does not exist to support a jury instruction proposed by the defense for an abuse of discretion. United States v. Fejes, 232 F.3d 696, 702 (9th Cir. 2000); United States v. Hairston, 64 F.3d 491, 493 (9th Cir. 1995); United States v. Duran, 59 F.3d 938, 941 (9th Cir. 1995).

DISCUSSION

The essential thrust of Castellanos's appeal is that, as a part

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more like United States v. Quintana-Torres

[5] In fine, on this record the government met its burden and the evidence was sufficient to support Castellanos's conviction.

B.

