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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NOT FOR PUBLICATION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.

JOHN HARPER,

Defendant - Appellant.

No. 08-50019

D.C. No. CR-05-01110-GPS-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George P. Schiavelli, District Judge, Presiding

Submitted December 12, 2008**
Pasadena, California

Before: SILVERMAN and BEA, Circuit Judges, and CONLON,*** District Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

*** The Honorable Suzanne Conlon, Northern District of Illinois, sitting by designation.

John Harper appeals the district court's order denying his motion to compel . We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm. Because the parties are familiar with the facts, we recite them only as necessary.

Based on the evidence provided at the evidentiary hearing, the district court did not commit clear error by finding the government did not make Harper a promise in exchange for his testimony. *See United States v. Helmandollar*, 852 F.2d 498, 501 (9th Cir. 1988). Further, because the district court did not err by finding no promise existed, the district court did not abuse its discretion by denying Harper's motion to compel specific performance of the promise. *See United States v. Anthony*, 93 F.3d 614, 616 (9th Cir. 1996).

AFFIRM.