

MAY 26 2009

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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NOT FOR PUBLICATION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.

SURINDER SINGH NIJJAR,

Defendant - Appellant.

No. 08-10269

D.C. No. 1:04-cr-05356-AWI

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted May 12, 2009\*\*

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Surinder Singh Nijjar appeals from the 12-month sentence imposed following his guilty-plea conviction for making false statements to a government

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

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

agency, and aiding and abetting, in violation of 18 U.S.C. §§ 1001 and 2. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Nijjar contends that the district court erred by enhancing his sentence pursuant to U.S.S.G. § 2B1.1(b)(11) (2002) because it improperly relied on certain testimony, and because the government's evidence failed to demonstrate that the offense involved a conscious or reckless risk of serious bodily injury or death. We conclude that the district court did not err. *See United States v. Johansson*, 249 F.3d 848, 859-60 (9th Cir. 2001).

**AFFIRMED.**