

JUL 14 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTURO HERNANDEZ-ESGUERRA,

Defendant - Appellant.

No. 08-50411

D.C. No. 3:07-cr-02976-JAH-1

MEMORANDUM*

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

Submitted July 8, 2009**
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **FERNANDEZ** and **N.R. SMITH**, Circuit
Judges.

The district court properly admitted testimony relating to financial gain. Fed.
R. Evid. 801(d)(2)(E). The Government’s characterization of the “beyond a
reasonable doubt” standard in closing argument, if error, was harmless beyond a

* 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).

reasonable doubt. *See United States v. Perlaza*, 439 F.3d 1149, 1171 & n.25 (9th Cir. 2006).

AFFIRMED.