

AUG 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>SETH AMOS NELSON,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 08-30216

D.C. No. 4:07-CR-00139-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Seth Amos Nelson appeals from the 188-month sentence imposed following his guilty-plea conviction for conspiracy to manufacture methamphetamine, in

* 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).

violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Nelson contends that the district court abused its discretion by denying his request for a continuance so that his forensic expert could testify about the drug quantity. This contention lacks merit. *See United States v. Tham*, 960 F.2d 1391, 1396 (9th Cir. 1992).

Nelson also contends that the district court's drug quantity determination was clearly erroneous and resulted in an unreasonable sentence because it was based on unreliable evidence and the district court did not choose the most conservative estimate. We disagree. *See United States v. August*, 86 F.3d 151, 155 (9th Cir. 1996) (finding no error in the drug quantity methodology employed by the district court).

AFFIRMED.