

SEP 02 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NOT FOR PUBLICATION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.

KENNETH HELGESON,

Defendant - Appellant.

No. 08-30303

D.C. No. 4:07-cr-00110-SEH

MEMORANDUM *

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

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Kenneth Helgeson appeals from the 57-month sentence imposed following a jury-trial conviction for involuntary manslaughter, in violation of 18 U.S.C.

* 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).

§§ 1153 and 1112(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Helgeson contends that the district court erred by denying his motion for acquittal pursuant to Federal Rule of Criminal Procedure 29 because the evidence was insufficient to sustain a conviction. Taking the evidence in the light most favorable to the government, a reasonable jury could have found beyond a reasonable doubt that Helgeson was guilty of involuntary manslaughter. *See United States v. Lopez-Martinez*, 543 F.3d 509, 515 (9th Cir. 2008).

Next, Helgeson contends that the district court procedurally erred by failing to adequately explain the sentence imposed. The district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

Finally, we decline to address Helgeson's contention that his sentence is substantively unreasonable, as he failed to raise this contention in his opening brief. *See United States v. Montoya*, 45 F.3d 1286, 1300 (9th Cir. 1995).

AFFIRMED.