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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NOT FOR PUBLICATION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.

WILLIE DAVID APPLEWHITE,

Defendant - Appellant.

No. 09-30221

D.C. No. 6:08-CR-60037-MRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Willie David Applewhite appeals from the district court's denial of his motion to dismiss the indictment for lack of jurisdiction. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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

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

Applewhite contends that the federal bank robbery statute, 18 U.S.C. § 2113(a), lacks a sufficient nexus to interstate commerce because the Federal Deposit Insurance Corporation does not insure banks against theft or robbery, and therefore bank robberies do not cause any loss to the federal government. This contention lacks merit. *See United States v. Blajos*, 292 F.3d 1068, 1071-72 (9th Cir. 2002); *United States v. Harris*, 108 F.3d 1107, 1109 (9th Cir. 1997).

AFFIRMED.