

FILED

MAY 17 2016

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NOT FOR PUBLICATION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.

ADRIENNE MARTA FRAZER,

Defendant - Appellant.

No. 15-10130

D.C. No. 2:12-cr-01836-GMS-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted May 13, 2016**
San Francisco, California

Before: KLEINFELD, IKUTA, and WATFORD, Circuit Judges.

Adrienne Marta Frazer appeals her conviction of five counts of making false claims against the United States. See 18 U.S.C. § 287. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm her conviction and sentence.

* 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).

Where a defendant failed to raise a proper objection at trial, we review challenges to jury instructions for plain error. United States v. Liu, 731 F.3d 982, 987 (9th Cir. 2013).

1. The jury instructions did not plainly err with regard to Frazer's theory of defense. The jury was instructed that, in order to convict Frazer of making false claims to the United States, the jury had to find that Frazer knew that the claims she made were untrue when she made them. This fairly and adequately covered Frazer's theory of her defense. See United States v. Dorotich, 900 F.2d 192, 194 (9th Cir. 1990).

2. There was no error in allowing proof in the disjunctive on an indictment in the conjunctive. Young v. Holder, 697 F.3d 976, 986 (9th Cir. 2012) (en banc), *abrogated in part by* Moncrieffe v. Holder, 133 S. Ct. 1678 (2013).

AFFIRMED.