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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NOT FOR PUBLICATION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-Appellant,

v.

WILLIAM TAYLER KIRKALDIE,

Defendant-Appellee.

No. 14-30109

D.C. No. 4:14-cr-00012-BMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted October 25, 2016**

Before: LEAVY, GRABER, and CHRISTEN, Circuit Judges.

The government appeals from the district court's order granting William Tayler Kirkaldie's motion to dismiss his indictment for domestic abuse by a habitual offender under 18 U.S.C. § 117(a). We have jurisdiction under 28 U.S.C. § 1291, and we reverse and remand for further proceedings.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

The district court dismissed the indictment on the ground that the government could not use Kirkaldie's uncounseled tribal court convictions to prove an element of the offense. After the district court's decision, the Supreme Court decided that the use of uncounseled tribal court convictions is permissible in a prosecution under section 117. *See United States v. Bryant*, 136 S. Ct. 1954, 1966 (2016). We agree with the parties that remand is required under *Bryant*. Accordingly, we reverse the district court's order dismissing Kirkaldie's indictment and remand for further proceedings.

REVERSED and REMANDED.