

FILED

NOV 15 2018

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NOT FOR PUBLICATION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.

ROBERT WESLEY LAFOUNTAIN,

Defendant-Appellant.

No. 17-30239

D.C. No.

1:16-cr-00120-SPW-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted November 5, 2018**
Portland, Oregon

Before: FERNANDEZ and IKUTA, Circuit Judges, and SESSIONS,*** District
Judge.

* 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 Honorable William K. Sessions III, United States District Judge for the District of Vermont, sitting by designation.

Robert Wesley LaFountain appeals his convictions for assault by striking, beating, or wounding in violation of 18 U.S.C. § 113(a)(4) and assault of a dating partner by strangling in violation of 18 U.S.C. § 113(a)(8). We have jurisdiction under 28 U.S.C. § 1291.

Viewed in the light most favorable to the prosecution, the evidence introduced at trial showed that LaFountain kicked Leslie Plainfeather, his dating partner, in the ribs, dragged her by her hair while kicking her, and pressed his knee into her throat to choke her. This evidence was more than adequate to allow a rational juror to find the essential elements of the crimes beyond a reasonable doubt. *See United States v. Nevils*, 598 F.3d 1158, 1163–65 (9th Cir. 2010) (en banc). Although LaFountain testified to a different version of events, the jury was free to disbelieve him. *See United States v. Williams*, 435 F.2d 642, 645–46 (9th Cir. 1970).

AFFIRMED.