

MAY 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff-Appellee,</p> <p>v.</p> <p>AMES PAUL CHEE,</p> <p>Defendant-Appellant.</p>
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No. 07-10309

D.C. No. CR-05-1082-PCT-FJM

MEMORANDUM \*

Appeal from the United States District Court for the  
District of Arizona  
Frederick J. Martone, District Judge, Presiding

Argued and Submitted May 13, 2008  
San Francisco, California

Before: B. FLETCHER and RYMER, Circuit Judges, and DUFFY \*\*, District  
Judge.

Ames Paul Chee appeals his jury conviction and sentence for one count of  
abusive sexual contact on an Indian Reservation in violation of 18 U.S.C. §§ 1153

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

\*\* The Honorable Kevin Thomas Duffy, Senior United States District  
Judge for the Southern District of New York, sitting by designation.

and 2244(a)(1). He seeks a new trial, arguing that: (1) the district court improperly admitted hearsay statements; and (2) the prosecutor improperly vouched for the credibility of the testifying victim. Alternatively, Chee seeks to have his sentence vacated and recalculated to include a two-level reduction for acceptance of responsibility pursuant to United States Sentencing Guidelines § 3E1.1. Chee also argues that cumulative error warrants reversal.

We have reviewed the record and conclude that no violation of the hearsay rules occurred. Also, even assuming that the prosecutor's comment during her closing argument constituted vouching, it was harmless error as the district court gave an effective curative jury instruction on vouching and instructed the jury to disregard any comment made by the prosecutor that the witness was telling the truth. See Hall v. Whitley, 935 F.2d 164, 165-66 (9th Cir. 1991) (prosecutor's isolated comment did not make trial fundamentally unfair in light of curative jury instructions and overwhelming evidence of guilt). Additionally, the district court did not err in declining to grant Chee a two-level reduction of his sentence for acceptance of responsibility as his written statement was a self-serving attempt to minimize his conduct, see United States v. Scrivener, 189 F.3d 944, 948 (9th Cir. 1999), and Chee challenged his factual guilt at trial. Finally, no cumulative error occurred.

**AFFIRMED.**