

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**OCT 11 2007**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN S. PANGELINAN,

Defendant - Appellant.

No. 07-10032

D.C. No. CR-06-00012-DAW

MEMORANDUM \*

Appeal from the United States District Court  
for the District of the Northern Mariana Islands  
David A. Wiseman, Commonwealth Superior Court Judge,  
Presiding by Designation

Submitted August 16, 2007\*\*  
San Francisco, California

Before: SILER \*\*\*, THOMAS, and BEA, Circuit Judges.

John S. Pangelinan appeals his jury conviction of two counts of obstruction

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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 Eugene E. Siler, Jr., Senior United States Circuit Judge for the Sixth Circuit, sitting by designation.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of a court order, in violation of 18 U.S.C. § 1509, arising out of his use of threats to interfere with a court order. We have jurisdiction pursuant to 28 U.S.C. § 1291, reverse Pangelinan's conviction on Count 1, but otherwise affirm. Because the facts and procedural history are familiar to the parties, we repeat them here only as necessary.

First, the evidence was insufficient to support Pangelinan's conviction under § 1509 on Count 1. Pangelinan's June 1, 2006, letter contains no language which any rational trier of fact could reasonably find expressed or implied a threat of physical or unlawful harm to person or property. *United States v. Stewart*, 420 F.3d 1007, 1016–17 (9th Cir. 2005). We therefore REVERSE Pangelinan's conviction on Count 1. The evidence, however, is sufficient to affirm Pangelinan's conviction on Count 2. Pangelinan's June 19, 2006, letter contains language which a rational trier of fact could find expressed a threat of physical harm to person or property. *Id.*

We reject each of Pangelinan's remaining claims. The district court's taking judicial notice of Pangelinan's misdemeanor contempt conviction did not violate Federal Rule of Evidence 609(a). In no instance did the district court abuse its discretion in disallowing certain questions during defense counsel's cross-examination of prosecution witnesses. *See United States v. Larson*, 495 F.3d 1094, 1102 (9th Cir. 2007) (en banc). The jury instruction regarding the legal definition

of “true threat” was proper. *United States v. Cassel*, 408 F.3d 622, 636 (9th Cir. 2005). Finally, there was no cumulative error which violated Pangelinan’s Fifth and Sixth Amendment rights to due process and a fair trial.

**REVERSED IN PART, AFFIRMED IN PART.**