

JAN 13 2009

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NOT FOR PUBLICATION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.

GINA MARIE MORSETTE,

Defendant - Appellant.

No. 07-30151

D.C. No. CR-06-00111-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Argued and Submitted November 17, 2008
Seattle, Washington

Before: KOZINSKI, Chief Judge, B. FLETCHER and RAWLINSON, Circuit
Judges.

Appellant Gina Marie Morsette challenges her 108-month prison sentence for conspiracy to possess methamphetamine with intent to distribute. Morsette maintains that the district court erroneously relied on the uncorroborated hearsay

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

statement of another methamphetamine dealer to calculate her base offense level.

We agree.

The uncorroborated hearsay statement lacked sufficient indicia of reliability to support the determination that 1.5 kilograms or more of methamphetamine were attributable to Morsette. *See United States v. Garcia-Sanchez*, 189 F.3d 1143, 1149 (9th Cir. 1999). On remand, the district court is to calculate the sentence without relying on the hearsay statement.

VACATED and REMANDED for resentencing.