

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 24 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 16-30153

Plaintiff-Appellee,

D.C. No.

v.

2:15-cr-00117-RSM-1

TRAVIS EDWARD FISCHER, AKA
Edward Travis Fischer,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, Chief Judge, Presiding

Argued and Submitted October 6, 2017
Seattle, Washington

Before: WARDLAW, CLIFTON, and OWENS, Circuit Judges.

Travis Edward Fischer appeals from his convictions on three counts of theft of public funds under 18 U.S.C. § 641 on the ground that the district court improperly commented on the evidence. As the parties are familiar with the facts, we do not recount them here. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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

To the extent the district court erred by including the chart in Instruction 20, such error is harmless because there is “no reasonable possibility that the error materially affected the verdict.” *United States v. Rubio-Villareal*, 967 F.2d 294, 296 n.3 (9th Cir. 1992) (en banc). As to Counts 9 and 10, both Cabrini Morris and Annaliza Torres testified that Defendant’s Queen Anne apartment was subsidized by HUD. As to Count 14, Renee Pelletier and Linda Peterson testified that the food stamps were funded by the federal government. Fischer presented no evidence contesting that testimony. In light of this evidence, there is no reasonable possibility that the exclusion of the chart would have altered the jury’s verdict.

AFFIRMED.