

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 17 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-30276

Plaintiff-Appellee,

D.C. No. 1:16-cr-00013-SPW

v.

MEMORANDUM\*

TAWNYA BEARCOMESOUT,

Defendant-Appellant.

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

Submitted August 9, 2017\*\*

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Tawnya Bearcomesout appeals from the district court's denial of her motion to dismiss the indictment and challenges her guilty-plea conviction for involuntary manslaughter, in violation of 18 U.S.C. §§ 1153(a) and 1112(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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). Bearcomesout's request for oral argument is denied.

Bearcomesout argues that the Double Jeopardy Clause barred her successive homicide prosecutions by the Northern Cheyenne Tribe and the United States government because the two entities are not separate sovereigns. This argument is foreclosed. *See Puerto Rico v. Sanchez Valle*, 136 S. Ct. 1863, 1870-72 (2016) (successive prosecutions for the same offense are not barred by the Double Jeopardy Clause if brought by separate sovereigns, and Indian Tribes “count as separate sovereigns under the Double Jeopardy Clause”). Furthermore, Bearcomesout has not shown impermissible collusion between the United States government and the Northern Cheyenne Tribe such that an exception applies under *Bartkus v. Illinois*, 359 U.S. 121 (1959). *See United States v. Lucas*, 841 F.3d 796, 803 (9th Cir. 2016) (impermissible collusion occurs where “the prosecutors of one sovereign so thoroughly dominate or manipulate the prosecutorial machinery of the other sovereign that the latter retains little or no volition in its own proceedings” (internal quotations omitted)).

**AFFIRMED.**