

No. _____

In the
Supreme Court of the United States

Bryce Tyrone Verhonich,

Petitioner,

v.

United States of America,

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

Appendix

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Appendix A

United States v. Verhonich,
No. 25-1407, 172 F.4th 633
(9th Cir. Apr. 7, 2026)

Published Opinion Affirming Conviction

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRYCE TYRONE VERHONICH,

Defendant - Appellant.

No. 25-1407

D.C. No.
2:24-cv-02148-
JAD-DJA-1

OPINION

Appeal from the United States District Court
for the District of Nevada
Jennifer A. Dorsey, District Judge, Presiding

Argued and Submitted January 7, 2026
San Francisco, California

April 7, 2026

Before: Ronald M. Gould, Jacqueline H. Nguyen, and Mark
J. Bennett, Circuit Judges.

Opinion by Judge Gould

SUMMARY*

Criminal Law

The panel affirmed the district court’s order affirming Bryce Tyrone Verhonich’s misdemeanor conviction and sentence for violating National Park Service Boating and Water Use Activities regulations in connection with a jet ski accident in which Verhonich was the driver and a passenger drowned.

Following a bench trial before a magistrate judge, Verhonich was found guilty of (1) negligent operation in violation of 36 C.F.R. § 3.8(b)(8); (2) failure to wear a personal flotation device in violation of 36 C.F.R. § 3.9(b)(a); and (3) failure to attach an engine cut-off switch lanyard in violation of 36 C.F.R. § 3.9(b)(2). The magistrate judge imposed a sentence of six months in custody and two years of probation.

Verhonich contended that evidence related to his failure to wear a life jacket or attach the engine cut-off lanyard to his wrist or body is irrelevant to his guilt or innocence on Count One because the plain meaning of “[o]perating a vessel,” as used in 36 C.F.R. § 3.8(b)(8), concerns only Verhonich’s “piloting of the jet ski, not external factors like safety gear.” On this issue of first impression, the panel held that the failure to wear a life jacket and the failure to attach a safety lanyard may both be considered in determining

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

whether a vessel has been operated negligently pursuant to 36 C.F.R. § 3.8(b)(8).

The panel held that sufficient evidence supports Verhonich's conviction for Count One. Viewing the evidence in the light most favorable to the government, a rational trier of fact could have found beyond a reasonable doubt that Verhonich failed to exercise the degree of care which a reasonable person, under like circumstances, would have demonstrated.

The panel held that Verhonich's challenge to the district court's admission of two surveillance videos as impermissible propensity evidence under Fed. R. Evid. 404(b) does not survive plain error review.

The panel held that the magistrate judge did not err at sentencing. The magistrate judge, who considered state vehicular-manslaughter cases and concluded that they were not persuasive, reasonably concluded that the factual underpinnings of the state court cases were distinct from Verhonich's case, and did not abuse his discretion by determining that the factors set out in 18 U.S.C. § 3553(a) weighed in favor of a custodial sentence.

COUNSEL

Lauren Ibanez (argued), Edward D. Penetar, and Brian Y. Whang, Assistant United States Attorneys; Adam M. Flake, Appellate Chief, Assistant United States Attorney; Sigal Chattah, Acting United States Attorney; Office of the United States Attorney, United States Department of Justice, Las Vegas, Nevada; Peter H. Walkingshaw, Assistant United

States Attorney, Office of the United States Attorney, United States Department of Justice, Reno, Nevada; for Plaintiff-Appellee.

Nicholas Wolfram (argued) and Ellesse Henderson, Assistant Federal Public Defenders; Rene L. Valladares, Federal Public Defender; Office of the Federal Public Defender, Las Vegas, Nevada; for Defendant-Appellant.

OPINION

GOULD, Circuit Judge:

On June 30, 2022, Defendant-Appellant Bryce Tyrone Verhonich (“Verhonich”) was the driver in a jet ski accident. Verhonich was rescued but his passenger, Lily Hatcher (“Hatcher”), drowned. Following a bench trial before a magistrate judge, Verhonich was found guilty of three misdemeanor counts in violation of National Park Service (“NPS”) Boating and Water Use Activities regulations: (1) negligent operation in violation of 36 C.F.R. § 3.8(b)(8); (2) failure to wear a personal flotation device in violation of 36 C.F.R. § 3.9(b)(a); and (3) failure to attach an engine cut-off switch lanyard in violation of 36 C.F.R. § 3.9(b)(2). The magistrate judge imposed a sentence of six months in custody and two years of probation. The district court’s order affirmed Verhonich’s conviction and sentence, which he now appeals. We affirm.

I. FACTS AND PROCEDURAL HISTORY

On June 29, 2022, at around midnight, Verhonich met Hatcher and invited her to his houseboat, which was docked

at Lake Mead. At approximately 1:15 a.m. the next day, Verhonich and Hatcher arrived at the Lake Mead National Recreation Area boat harbor and boarded his neighbor's jet ski. At around 5:00 a.m., Verhonich and Hatcher left Verhonich's house boat and got back on the jet ski and headed to a shower facility on the other side of the lake. During this ride, Verhonich took a detour to show Hatcher the sunrise at Hoover Dam. That morning, Eduardo Estoy ("Estoy") was fishing from his kayak on Lake Mead when he found Verhonich in the water without a life jacket. Estoy helped Verhonich stay afloat and called 911. NPS rangers responded and rescued Estoy and Verhonich. The rangers then searched the area for Hatcher but did not locate her or any life jackets. During the search, the rangers encountered the jet ski, which still had the engine cut-off lanyard attached, and the engine was still running. When Ranger William Dentler ("Ranger Dentler") removed the engine cut-off lanyard from the jet ski, he did not notice any defect or malfunction with the lanyard. On July 6, 2022, Hatcher's body was discovered nearly 300 feet below the surface of Lake Mead. An autopsy revealed that Hatcher's cause of death was drowning with contributing factors of cocaine and methamphetamine use.

At a bench trial before a United States magistrate judge, the government introduced surveillance video from the courtesy dock at the Las Vegas Boat Harbor, from June 30, 2022, between 1:15 a.m. and 1:19 a.m., showing Verhonich and Hatcher on the jet ski pulling away from the dock without wearing lifejackets ("Exhibit 9A"). The government also introduced body camera footage from after Verhonich was rescued by rangers showing Verhonich departing on the jet ski without attaching the engine cut-off switch lanyard ("Exhibit 3"). The government called Estoy as a witness,

and he testified that he saw Verhonich driving the jet ski shortly before the accident. Estoy described the water conditions as “extremely choppy” and the wind as “howling.” Estoy recalled seeing a jet ski “zoom by” in the distance. When he found Verhonich in the water, Estoy also noticed that Verhonich was not wearing the engine cut-off lanyard and that the engine on the jet ski was still running. Estoy did not see any life jackets in the water or any signs of Hatcher.

The defense called Verhonich as a witness. He testified that he set out, wearing a life jacket and the cut-off switch lanyard, in conditions that were “[n]ot choppy, but not calm.” He testified that he initially traveled between thirty and thirty-five miles an hour but after conditions suddenly worsened, he slowed to between five and seven miles per hour to turn around for safety. He testified that while he was turning, “there was no wave that hit the jet ski” but also that “[t]he wave that hit the jet ski was -- when -- it sent it to a different trajectory on the lake” and “that’s how we slid off the jet ski.” During cross-examination, however, Verhonich testified that he told the investigators that he “kind of turned sharp on accident” causing him and Hatcher to fall off the jet ski into the water.

The defense called an expert witness, Captain Gregory M. Tylawsky (“Tylawsky”), a master unlimited of oceangoing vessels. Tylawsky testified that, based on his research, an adiabatic wind event occurred at Lake Mead on June 30, 2022. Tylawsky testified that these wind events occur when cool air comes over the cliffs surrounding the lake and falls to the surface of the water where it “creates very, very high winds and also creates a lot of spray and . . . high seas, because the air is very dense compared to the air over the water.”

After the bench trial, Verhonich was found guilty of negligent operation of a vessel in violation of 36 C.F.R. § 3.8(b)(8) (“Count One”), failing to wear a personal floatation device in violation of 36 C.F.R. § 3.9(b)(1) (“Count Two”), and failing to attach an engine cut-off switch lanyard in violation of 36 C.F.R. § 3.9(b)(2) (“Count Three”). On November 5, 2024, the magistrate judge imposed a sentence of six months in custody for Counts One and Two, to be served concurrently, and two years of probation for Count Three.

Verhonich filed a notice of appeal to the district court on November 7, 2024, arguing his judgment should be vacated on three grounds: (1) the magistrate judge admitted improper propensity evidence; (2) insufficient evidence supported his conviction on Count One; and (3) the magistrate judge erred at sentencing. On February 28, 2025, the district court issued an order affirming the conviction and judgment of sentence.

II. STANDARD OF REVIEW

When a defendant timely moves for acquittal at the close of the government’s case-in-chief in a bench trial, we review the district court’s denial of a motion for acquittal based on sufficiency of the evidence under Rule 29 *de novo*. *United States v. Boam*, 69 F.4th 601, 606 (9th Cir. 2023).

We review admission of “other crimes” evidence for an abuse of discretion. *United States v. Parks*, 285 F.3d 1133, 1141 (9th Cir. 2002). When a defendant does not timely raise an objection to the admission of the evidence, however, we review for plain error. *See United States v. Bracy*, 67 F.3d 1421, 1432 (9th Cir. 1995). To show plain error, a defendant “must show that (1) there was an error, (2) the error is clear or obvious, (3) the error affected his substantial

rights, and (4) the error seriously affected the fairness, integrity, or public reputation of judicial proceedings.” See *United States v. Johnson*, 979 F.3d 632, 636 (9th Cir. 2020). Here, Verhonich failed to timely object to the admission of the challenged evidence at trial and raises his Rule 404(b) arguments for the first time on appeal. Accordingly, plain error review applies.

We review for abuse of discretion whether the sentencing court relied on improper evidence. *United States v. Franklin*, 18 F.4th 1105, 1117 (9th Cir. 2021). When a defendant does not raise an objection to his sentence before the district court, however, we review for plain error. *United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009). “Even in the absence of an objection, we review the substantive reasonableness of a sentence for abuse of discretion.” *United States v. Avendano-Soto*, 116 F.4th 1063, 1066 (9th Cir. 2024). Here, Verhonich did not raise an objection to the magistrate judge referring to his anecdotal experience¹ during the sentencing hearing, so we review that challenge for plain error. Verhonich’s claim as to substantive reasonableness of his sentence is reviewed for abuse of discretion.

III. DISCUSSION

A. Statutory Meaning of 36 C.F.R. § 3.8(b)(8)

In reviewing the sufficiency of evidence following a bench trial, we consider “whether, after viewing the evidence in the light most favorable to the prosecution, *any*

¹ At sentencing, the magistrate judge referred to his personal anecdotal experience by stating “my anecdotal experience[] in State Court for over 30 years is that when negligence or the actions of somebody causes a death, it does lead to incarceration.”

rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *United States v. Laney*, 881 F.3d 1100, 1106 (9th Cir. 2018) (quoting *United States v. Atkinson*, 990 F.2d 501, 502–03 (9th Cir. 1993) (emphasis in original)).

In the present case, the applicable NPS regulation provides:

The following operations are inherently unsafe and therefore prohibited...[o]perating a vessel, or knowingly allowing another person to operate a vessel in a negligent manner, by failing to exercise that degree of care which a reasonable person, under like circumstances, would demonstrate in order to prevent the endangering of the life, limb, or property of a person(s) through the operator's lack of knowledge, inattention, or general carelessness.

36 C.F.R. § 3.8(b)(8). Verhonich contends that evidence related to his failure to wear a life jacket or attach the engine cut-off lanyard to his wrist or body is irrelevant to his guilt or innocence on Count One because the plain meaning of “[o]perating a vessel,” as used in 36 C.F.R. § 3.8(b)(8), “concerns only Mr. Verhonich’s piloting of the jet ski, not external factors like safety gear.” This is an issue of first impression, and so we address it before turning to the application of this provision.

“It is a maxim of statutory construction that unless otherwise defined, words should be given their ordinary, common meaning.” *Foxgord v. Hischemoeller*, 820 F.2d 1030, 1032 (9th Cir. 1987). Here, the meaning of “operate”

is not defined in the statute. Black’s Law Dictionary defines “operate” as “[t]o direct, put into action, or maintain the functioning of, esp[ecially] by direct personal effort; to engage, use, and control (a machine, computer, equipment, etc.).” *Operate*, *Black’s Law Dictionary* (12th ed. 2024). We are not persuaded that the act of maintaining the functioning of, or engaging, using, and controlling, a jet ski, plainly excludes external factors that impact the nature of the maintenance or use, such as safety gear. In particular, removing the safety lanyard entirely halts the operation of the vessel and therefore is encompassed by “operate,” even under Verhonich’s narrow definition to mean only piloting the jet ski itself.

A broader construction of the plain meaning of “operate” is strengthened by a consideration of the statutory context. *See Alexander Mfg., Inc. Emp. Stock Ownership Plan & Tr. v. Illinois Union Ins. Co.*, 560 F.3d 984, 987 (9th Cir. 2009) (“If the phrase in question has more than one plausible interpretation, the court must then examine the context in which the phrase is used and the broader context of the policy as a whole”). Verhonich cites five of the preceding subsections of 36 C.F.R. § 3.8(b) to support his statutory interpretation, which he contends “exclusively describe piloting the vehicle.”

The Supreme Court has said “when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration.” *Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass’n*, 499 U.S. 117, 129 (1991).² As the

² This general principle has long been known by the Latin phrase “*ejusdem generis*.” *See Ejusdem Generis*, *Black’s Law Dictionary* (12th ed. 2024).

district court concluded, however, “the preceding subsections do not relate only to the act of driving a vessel, but encompass external situations that would make driving the vessel inherently unsafe.” For example, section 3.8(b)(6) prohibits “[o]perating a power-driven vessel while a person is riding on the decking over the bow, gunwales, top edge of the transom, motor cover, or in any other unsafe position when the vessel is being operated,” and section 3.8(b)(7) prohibits “[o]perating a power driven vessel engine/s or generator with a person sitting, riding or hanging on to a swim platform or swim ladder.” 36 C.F.R. § 3.8(b). The district court correctly concluded that Verhonich did not “distinguish driving a watercraft while passengers are sitting in dangerous positions from driving one while passengers aren’t wearing personal-flotation devices.”

Verhonich also contends that by including only two passenger-specific examples of unsafe circumstances, the regulation purposely excluded other passenger specific circumstances from section 3.8(b)’s ambit. *See Esteras v. United States*, 606 U.S. 185, 195 (2025) (“[E]xpressing one item of [an] associated group or series excludes another left unmentioned”). We are not persuaded by this argument under the circumstances presented here, because the language, “[o]perating a vessel, or knowingly allowing another person to operate a vessel in a negligent manner, by failing to exercise that degree of care which a reasonable person . . . would demonstrate,” is more general than the preceding sections discussed above. So, interpreting section 3.8(b)(8) as prohibiting only the specific activities listed beforehand would render the provision meaningless. “It is an accepted canon of statutory interpretation that we must interpret the statutory phrase as a whole, giving effect to each word and not interpreting the provision so as to make

other provisions meaningless or superfluous.” *United States v. 144,774 pounds of Blue King Crab*, 410 F.3d 1131, 1134 (9th Cir. 2005).

Finally, that wearing life jackets and attaching cut-off switch lanyards are conditions of operation of personal watercraft, a specific category of vessels, in a succeeding provision, *see* 36 C.F.R. §§ 3.9(b)(1)–(2), is of no consequence, because section 3.8 governs the broader category of vessel operations. *See* 36 C.F.R. § 1.4 (defining vessel and personal watercraft). Individuals operating personal watercraft must comply with both provisions.

Accordingly, we hold that the failure to wear a life jacket and the failure to attach a safety lanyard may both be considered in determining whether a vessel has been operated negligently pursuant to 36 C.F.R. § 3.8(b)(8).

B. Sufficient evidence supports Verhonich’s conviction for Count One

The government’s evidence established that Verhonich operated a jet ski without securing the engine cut-off lanyard while he and Hatcher were not wearing life jackets and that Verhonich was operating the jet ski at a high rate of speed and in rough water conditions. Critically, Verhonich admitted that he made a careless turning maneuver when he told investigators that he “turned the wheel wrong” and that he “kind of turned sharp on accident.” This turn caused Verhonich and Hatcher to fall from the jet ski into the water.

Viewing the evidence in the light most favorable to the government, a rational trier of fact could have found that Verhonich failed to exercise the degree of care which a reasonable person, under like circumstances, would have demonstrated beyond a reasonable doubt, so sufficient

evidence supports Verhonich's conviction for negligent operation.

C. Verhonich's Rule 404(b) challenge does not survive plain error review

Verhonich challenges the district court's admission of two surveillance videos, Exhibit 9A and Exhibit 3, as impermissible propensity evidence under Rule 404(b). *See* Fed. R. Evid. 404(b)(1) ("Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.").

As for the admission of Exhibit 9A, the magistrate judge did not err because the surveillance footage showing that Verhonich and Hatcher did not have life jackets upon boarding the jet ski, and so could not have been wearing life jackets at the time of the accident, is inextricably intertwined with Count Two, failure to wear a personal flotation device, and thus could be admitted without Rule 404(b) notice. *See United States v. Dorsey*, 677 F.3d 944, 951 (9th Cir. 2012) (holding "evidence should not be considered 'other crimes' or 'other act' evidence within the meaning of Rule 404(b) if 'the evidence concerning the 'other' act and the evidence concerning the crime charged are inextricably intertwined'") (internal citation omitted).

As for Exhibit 3, Verhonich has not shown that its admission affected his substantial rights because there is overwhelming evidence that Verhonich did not attach the safety lanyard: the rangers encountered the jet ski after the accident, the engine cut-off lanyard was still attached to the jet ski, and the engine was still running. Moreover, Ranger Dentler testified that when he removed the engine cut-off lanyard from the jet ski, he did not notice any defect or

malfunction with the lanyard, and that the design and function of engine cut-off lanyards contradict Verhonich's claim that the lanyard came off his wrist during the accident. *See United States v. Morfin*, 151 F.3d 1149, 1151 (9th Cir. 1998) (concluding that error did not affect the defendant's substantial rights because the evidence against the defendant was "overwhelming").

D. The magistrate judge did not err at sentencing

The magistrate judge here considered state vehicular-manslaughter cases and concluded that they were not persuasive for several reasons. The magistrate judge observed that courts are not required to compare state and federal sentences in felony cases and stated that he did not believe misdemeanors should be treated differently. The magistrate judge also reasonably concluded that the "factual underpinnings" of the state court cases were distinct from Verhonich's case. While the magistrate judge referred to his experience in state court at sentencing, the magistrate judge did not accept Verhonich's sentencing disparity argument for a variety of independent reasons and imposed the custodial sentence after considering the sentencing factors set out in 18 U.S.C. § 3553(a).³ The magistrate judge did not abuse his discretion by determining that those factors weighed in favor of a custodial sentence. *See United States v. Ressam*, 679 F.3d 1069, 1089 (9th Cir. 2012) (holding a sentence is reasonable when "the record as a whole reflects

³ Section 3553(a) requires courts to consider several factors including "the nature and circumstances of the offense and the history and characteristics of the defendant[.]" and "the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, . . . to provide just punishment for the offense" and "to afford adequate deterrence to criminal conduct." 18 U.S.C. §§ 3553(a)(1)–2.

rational and meaningful consideration of the factors enumerated in” Section 3553(a)).

AFFIRMED.

Appendix B

United States v. Verhonich,

No. 25-1407, Dkt. 58

(9th Cir. June 15, 2026)

Order Denying Petition for Rehearing

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 15 2026

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRYCE TYRONE VERHONICH,

Defendant - Appellant.

No. 25-1407

D.C. No.

2:24-cv-02148-JAD-DJA-1

District of Nevada,

Las Vegas

ORDER

Before: GOULD, NGUYEN, and BENNETT, Circuit Judges.

The full court has been advised of Defendant-Appellant's Petition for Rehearing En Banc and no judge of the court has requested a vote on the Petition for Rehearing En Banc. Fed. R. App. P. 40. The petition for rehearing en banc is **DENIED.**

Appendix C

United States v. Verhonich,

2:24-cv-02148-JAD-DJA, Dkt. 21

(D. Nev. Feb. 28, 2025)

Order Denying Appeal and Affirming Conviction

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Bryce Tyrone Verhonich,
 Appellant
 v.
 United States of America,
 Appellee

Case No.: 2:24-cv-02148-JAD-DJA

**Order Affirming Conviction and Denying
 as Moot Motion for Release Pending
 Appeal**

[ECF Nos 1, 8]

Bryce Tyrone Verhonich was charged with three misdemeanors following a 2022 jet-ski accident on Lake Mead that caused the death of his passenger. After a two-day bench trial, Magistrate Judge Daniel J. Albregts found Verhonich guilty of failing to wear a life jacket, failing to attach a safety lanyard¹ used to turn off a jet ski when its driver falls off, and negligently operating a jet ski. The judge imposed a six-month prison sentence followed by two years of supervised release.

Verhonich appeals his conviction and sentence, contending that (1) the trial court violated Federal Rule of Evidence 404(b) by admitting evidence of his propensity to not wear a life jacket or safety lanyard; (2) insufficient evidence supported his conviction for negligent operation; and (3) the trial judge abused his discretion by imposing a custodial sentence. Verhonich also asks to remain out of custody pending the resolution of this appeal. Because none of Verhonich's challenges warrants reversal under the applicable standards of review, I affirm Verhonich's conviction and sentence. And because this order resolves Verhonich's pending appeal, I deny as moot his motion for release pending appeal. Verhonich must self-surrender by March 7, 2025.

¹ The regulation criminalizing this conduct describes the lanyard as a "lanyard type engine cut-off switch." 36 C.F.R. § 3.9(b)(2). I refer to the cut-off-switch lanyard as a safety lanyard throughout this order.

Background

A. A jet-ski accident on Lake Mead claims the life of passenger Lily Hatcher.²

Close to midnight on July 29, 2022, Bryan Verhonich met Lily Hatcher in Boulder City, Nevada, and invited her to hang out on his houseboat, which was docked on Lake Mead. At around 1:15 a.m., they arrived at the Las Vegas Boat Harbor Marina and hopped on a jet ski to get to Verhonich's boat. Surveillance footage from the marina showed them getting on the jet ski without first putting on life jackets. The pair had been on Verhonich's boat for approximately four hours when Hatcher told Verhonich that she wanted to take a shower. So at around 5:00 a.m., they set out on the jet ski to the other side of the lake where the public showers were located.

Halfway to the showers, Verhonich suggested that they take a detour to watch the sun rise over Hoover Dam, and Hatcher agreed. He testified that, at this point, he was driving at the speed of about 35 miles per hour. The weather conditions—which Verhonich testified were “not calm, but not choppy”³ when the pair left the houseboat—suddenly changed: the winds picked up and choppy waves formed. Captain Gregory Tylawsky, a “master unlimited of oceangoing vessels” and retired boat captain, testified at trial that this sudden worsening was the result of “adiabatic winds,” a common occurrence on Lake Mead in which windy conditions “come up very, very quickly, almost instantaneously”⁴

Realizing that the conditions had become unsafe, Verhonich slowed down to around 5–7 miles per hour and turned the jet ski. In a police interview, he described the maneuver as “a

² This summary is distilled from the transcripts of the two-day bench trial before Judge Albregts and the admitted trial exhibits. See ECF Nos. 33, 38 & 39 in *United States v. Verhonich*, 2:23-mj-00315-DJA (trial-court case).

³ ECF No. 38 at 182:4–5 in trial-court case.

⁴ *Id.* at 235:1–236:25.

1 wrong turn” and “a sharp turn on accident.”⁵ The turn caused Verhonich and Hatcher to fall off
2 the jet ski. Verhonich took the stand at trial and testified that the jet ski didn’t capsize and that
3 an errant wave didn’t cause the accident.

4 Luckily for Verhonich, witness Edwardo Estoy was fishing from a kayak on Lake Mead
5 that morning. He testified that he knew it would be windy because he had checked his phone’s
6 weather app the night before, but he chose to go fishing anyway. He also noted that the water
7 conditions while he was fishing were “extremely choppy” and that the wind was “howling.”⁶
8 While fishing, Estoy noticed a jet ski “kind of zoom[] by” him.⁷ A few minutes later, he noticed
9 the jet ski “wasn’t moving,” so he paddled over to investigate.⁸ Estoy discovered the unmanned
10 jet ski circling the same spot, and once he got closer he heard Verhonich screaming for help.
11 Estoy helped Verhonich grab hold of the kayak, and Verhonich told him that there was another
12 passenger in the water. They didn’t hear her or see her from the kayak. Estoy testified that
13 Verhonich wasn’t wearing a life jacket when he was rescued. Estoy asked Verhonich where his
14 life jacket was, and Verhonich responded that it had fallen off.

15 Estoy called the police at around 6:00 a.m. and a couple of hours later, Ranger William
16 Dentler reached their location. Dentler observed that Verhonich wasn’t wearing a life jacket or a
17 safety lanyard. Once Verhonich and Estoy were safely on the rescue boat, the rangers searched
18 for Hatcher for about 30 minutes. They didn’t find her, nor did they see any life jackets floating
19 near the scene. They did find the jet ski—which had been swept away from the scene of the
20 accident by a large wave—still running and with the safety lanyard still attached. When used

21 _____
22 ⁵ ECF No. 33 at 13, 49 in trial-court case (trial exhibits).

23 ⁶ ECF No. 38 at 19:23–20:3 in trial-court case.

⁷ *Id.* at 20:24.

⁸ *Id.* at 22:1–8.

1 properly, the safety lanyard attaches the jet-ski key to the driver's wrist. If the driver falls off,
2 the lanyard is designed to stay on the wrist and pull the key out of the ignition, causing the jet ski
3 to turn off. Dentler removed the lanyard and didn't notice any malfunctions with the key or the
4 wristband. Verhonich was then instructed to drive the jet ski directly to the harbor. Dentler's
5 body-camera footage was introduced to show that, when Verhonich got back on the jet ski, he
6 didn't attach the lanyard to his wrist.

7 After Verhonich returned to the marina, Dentler and his associates searched for Hatcher
8 for three to four more hours. They didn't find Hatcher or any life jackets. A search-and-rescue
9 team recovered Hatcher's body several days later. She was not wearing a life jacket, nor did the
10 search-and-rescue team discover any life jackets while searching for her.

11 Testifying in his own defense, Verhonich stated that he and Hatcher were wearing life
12 jackets that morning, but Hatcher only buckled one of the available straps. He testified that the
13 life jackets must have fallen off when they fell, but he couldn't recall when or how that
14 happened. He also testified that he had the safety lanyard on his wrist when he left the dock and
15 that it "came off [his] wrist" when he fell off the jet ski.⁹ On cross-examination, the government
16 confronted Verhonich with statements he made during an interview the day of the accident
17 regarding whether he and Hatcher had buckled the life jackets. In all of his statements,
18 Verhonich maintained that he and Hatcher were wearing life jackets in some capacity.

19
20 **B. The trial judge finds Verhonich guilty on all counts and sentences him to six months
in custody.**

21 Verhonich was charged with three misdemeanor counts for these June 30th events. In
22 count one, he was charged with negligent operation of a vessel under 36 C.F.R. § 3.8(b)(8) for
23

⁹ *Id.* at 191:1–4.

1 making a “sharp turning maneuver” in dangerous weather conditions, causing Hatcher’s death.¹⁰
 2 Count two accused Verhonich of failing to ensure that he and his passenger wore a “personal
 3 flotation device” under 36 C.F.R. § 3.9(b)(1) when they rode the jet ski from the marina to
 4 Verhonich’s boat and again from his boat to the Hoover Dam.¹¹ And in count three, Verhonich
 5 was charged with failing to attach the jet ski’s “engine cut-off switch lanyard” in violation of 36
 6 C.F.R. § 3.9(b)(2) when he and Hatcher left the houseboat at dawn.¹²

7 After a two-day bench trial, the trial judge found Verhonich guilty on all three counts.
 8 He concluded that Verhonich’s attestations that he was wearing a life jacket and safety lanyard
 9 were not credible in light of the conflicting evidence and thus found Verhonich guilty of counts 2
 10 and 3. He also determined that Verhonich admitted that he made a “bad turn” in unsafe waters
 11 that, “when [coupled] with the totality of the circumstances[,]” proved Verhonich’s guilt on the
 12 negligent-operation charge.¹³

13 At sentencing, the government and the United States Probation Office recommended that
 14 the court impose a twelve-month sentence consisting of two consecutive six-month terms for
 15 counts 2 and 3 and two years of probation for count 1.¹⁴ Verhonich sought a noncustodial
 16 sentence of probation, community service, and a mandatory boat-safety course, arguing that his
 17 recommended sentence is similar to those imposed in state-court vehicular-manslaughter cases.¹⁵
 18 The judge concluded that those state sentences weren’t appropriate comparators and ultimately
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20 ¹⁰ ECF No. 26 at 2 in trial-court case (amended criminal complaint).

21 ¹¹ *Id.* at 3.

22 ¹² *Id.* at 4.

23 ¹³ ECF No. 39 at 42:1–6.

¹⁴ ECF Nos. 41 (government’s sentencing memorandum), 44 (Probation Office’s presentence report and recommendation) in trial-court case.

¹⁵ ECF No. 42 (Verhonich’s sentencing memorandum).

1 sentenced Verhonich to two concurrent six-month prison terms followed by two years of
2 supervised release.

3 Discussion

4 A. Verhonich’s Rule 404(b) challenge does not survive plain-error review.

5 Verhonich contends that the admission of two videos taken before and after the jet-ski
6 accident violated Federal Rule of Evidence 404(b) because they were used to suggest that
7 Verhonich had a propensity for failing to wear a life jacket and safety lanyard. Appellate courts
8 in the Ninth Circuit generally review the admission of character evidence under Rule 404(b) for
9 abuse of discretion.¹⁶ “However, if no objection to the admission was raised, the court’s decision
10 to admit evidence is reviewed for plain error.”¹⁷ Verhonich did not object to the admission of
11 this evidence during trial, so plain-error review applies.

12 To show plain error, a defendant “must show that (1) there was an error, (2) the error is
13 clear or obvious, (3) the error affected his substantial rights, and (4) the error seriously affected
14 the fairness, integrity, or public reputation of judicial proceedings.”¹⁸ For an error to affect the
15 defendant’s substantial rights, he bears the burden to show that the error prejudicially “affected
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21 ¹⁶ *United States v. Bracy*, 67 F.3d 1421, 1432 (9th Cir. 1995). The district court reviews an
22 appeal from a misdemeanor conviction by a magistrate judge under the same standards that the
23 court of appeals uses to review an appeal from a district-court judgment. Fed. R. Crim. P.
58(g)(2)(D).

¹⁷ *Id.*

¹⁸ *United States v. Johnson*, 979 F.3d 632, 636 (9th Cir. 2020).

the outcome of the [trial] court proceedings.”¹⁹ Courts typically conclude that an error is not prejudicial if there was other “overwhelming evidence of his guilt.”²⁰

1. Rule 404(b) prohibits the admission of other bad acts to prove a defendant’s propensity to commit the charged crime.

Rule 404(b) generally bars “[e]vidence of any other crime, wrong, or act . . . to prove” a defendant’s character in order to show that he “acted in accordance with that character” on a particular occasion.²¹ That evidence may be used, however, to prove “motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.”²² If the prosecution intends to use evidence of other bad acts in its case, it must provide reasonable, written notice before trial that explains “the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose.”²³

In the Ninth Circuit, the prosecution may use other-bad-acts evidence without satisfying the requirements of Rule 404(b) if the evidence is “inextricably intertwined with the crime with which the defendant is charged.”²⁴ “There are generally two categories of cases in which” the inextricably intertwined exception applies.²⁵ The first is when the bad act “constitutes a part of

¹⁹ *United States v. Cotton*, 535 U.S. 625, 632 (2002) (cleaned up); *United States v. Olano*, 507 U.S. 725, 734 (1993) (explaining that the third factor of a plain-error analysis is similar to the “so-called harmless error inquiry . . . with one important difference: It is the defendant rather than the Government who bears the burden of persuasion with respect to prejudice”).

²⁰ *See, e.g., United States v. Ramirez*, 537 F.3d 1075, 1086 (9th Cir. 2008).

²¹ Fed. R. Evid. 404(b)(1).

²² Fed. R. Evid. 404(b)(2).

²³ Fed. R. Evid. 404(b)(3)(A)–(C).

²⁴ *United States v. Loftis*, 843 F.3d 1173, 1177 (9th Cir. 2016) (quoting *United States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012 (9th Cir. 1995)).

²⁵ *Id.*

1 the transaction that serves as the basis for the criminal charge.”²⁶ The second is when other-bad-
 2 acts evidence is needed “to permit the prosecutor to offer a coherent and comprehensible story
 3 regarding the commission of the crime.”²⁷

4 **2. *The surveillance footage showing Verhonich and Hatcher on the jet ski without***
 5 ***life jackets four hours before the accident was inextricably intertwined with the***
 6 ***no-flotation-device charge in Count 2.***

7 Verhonich challenges the introduction of surveillance footage taken from the Las Vegas
 8 Boat Harbor Marina at approximately 1:15 a.m. on the morning of the jet-ski accident. That
 9 video depicts Verhonich and Hatcher leaving on a jet ski, and it appears that neither of them is
 10 wearing a life jacket. The government introduced this footage during its case-in-chief as
 11 evidence of Verhonich’s guilt on the personal-flotation-device count.

12 Verhonich contends that the footage is improper propensity evidence under Rule
 13 404(b).²⁸ He claims that he was not given notice of the prosecution’s attempt to use that
 14 evidence and that the government used it for an improper purpose—to prove his propensity to
 15 forego life jackets when operating a jet ski.²⁹ The government responds that the surveillance
 16 footage is inextricably intertwined with the crimes charged in count 2 of the complaint and thus
 17 could be admitted without Rule 404(b) notice.³⁰

18 There’s little question that the surveillance footage depicts events that are part of the
 19 transaction forming the basis of Verhonich’s no-flotation-device charge. In the amended
 20 complaint, the prosecution charged Verhonich with failing to wear a life jacket (and failing to

21 ²⁶ *Id.* at 1178 (quoting *Vizcarra-Martinez*, 66 F.3d at 1012).

22 ²⁷ *Vizcarra-Martinez*, 66 F.3d at 1012–13.

23 ²⁸ ECF No. 7 at 14.

²⁹ *Id.* at 14–15.

³⁰ ECF No. 16 at 13–17.

1 ensure that Hatcher was wearing one) at approximately 6:00 a.m., when the accident occurred,
 2 and at approximately 1:15 a.m., when they departed from the marina.³¹ Verhonich fails to
 3 explain why video evidence of an act explicitly charged in a criminal complaint qualifies as
 4 404(b) evidence rather than evidence of the charged crime itself. Because there is no merit to
 5 Verhonich’s contention that admission of the surveillance footage constitutes other-acts evidence
 6 admitted in violation of Rule 404(b), I cannot conclude that the trial judge committed plain error
 7 by allowing its admission.

8 **3. The admission of body-camera footage from after the accident didn’t affect**
 9 **Verhonich’s substantial rights because overwhelming evidence supported his**
 10 **guilt on count 3.**

11 Verhonich also challenges the admission of footage from Ranger Dentler’s body camera
 12 that depicts Verhonich getting back on the jet ski after he was rescued. In that footage, Dentler
 13 hands Verhonich the safety lanyard, then Verhonich “attaches the safety lanyard to the engine
 14 shutoff, then lays it in the center console.”³² The government pointed to that video as evidence
 15 that Verhonich did not always attach his safety lanyard when riding his jet ski.³³

16 Verhonich contends that this evidence was admitted for the improper purpose of showing
 17 that he was in the habit of not using the lanyard properly. The government responds that this
 18 evidence is inextricably intertwined with count 3 because it was taken close in time to the
 19 allegations charged in the amended complaint and demonstrates that “at no point in time—from
 20 when he and Ms. Hatcher left his houseboat on the jet ski until he returned it to the boat harbor—
 21 did Verhonich attach the [safety] lanyard to his wrist while operating the jet ski.”³⁴

22 ³¹ ECF No. 26 at 3 in trial-court case.

23 ³² ECF No. 38 at 57:1–2 in trial-court case.

³³ See ECF No. 39 at 16:15–19; 18:12–15 in trial-court case.

³⁴ ECF No. 16 at 18.

1 This after-the-fact evidence is not inextricably intertwined with the facts charged in count
2 3. The allegations supporting that count focus exclusively on events that occurred between
3 approximately 6:00 a.m., when Verhonich fell off the jet ski, and an hour or so later, when the
4 rescue team recovered the rogue jet ski. Ranger Dentler's bodycam footage shows Verhonich
5 mounting the jet ski hours after the accident and under circumstances that are distinct from the
6 charged conduct. That this happened on the same day isn't enough to show that this separate
7 action is part of the same transaction underlying count 3. Nor was this evidence required for the
8 prosecution to tell a coherent story of what happened when Verhonich fell off the jet ski without
9 the lanyard attached.

10 But even if I assume that the bodycam footage falls under Rule 404(b) and that the trial
11 court erred by admitting it, Verhonich hasn't met his burden to show that this error affected his
12 substantial rights. Overwhelming evidence of Verhonich's failure to attach the safety lanyard
13 renders any reliance on the body-camera footage harmless. Testimony from Estoy and Dentler
14 unequivocally supported the fact that, when Verhonich was rescued and when the jet ski was
15 recovered, the key on the lanyard was still attached to the jet ski. Dentler testified that he didn't
16 notice any "defect or malfunction" on the lanyard when he removed it from the jet ski.³⁵ Dentler
17 also testified that he had experience with safety lanyards like the one at issue here and had fallen
18 off a jet ski with one attached. In those instances, Dentler averred, the lanyard had never come
19 off his wrist.³⁶

20 The only evidence contradicting the natural inference that Verhonich wasn't wearing the
21 safety lanyard was Verhonich's own statements. He testified that he "always" put on the safety
22 lanyard when he used a jet ski, while noting that he had only "been on [a] jet ski maybe five

23 ³⁵ ECF No. 38 at 53:22–23 in trial-court case.

³⁶ *Id.* at 51:6–17.

1 times in [his] whole life.”³⁷ And he maintained that the lanyard came off his wrist during the
 2 accident. During cross-examination, the prosecution probed the possibility of that happening,
 3 asking “[h]ow does that lanyard come off of your wrist?”³⁸ Verhonich answered, “I would have
 4 to assume that from the force of me falling off. I don’t know.”³⁹ The prosecutor then
 5 paraphrased Verhonich’s earlier statements emphasizing how slowly the jet ski was moving and
 6 how anticlimactically they fell off the jet ski to question how there could have been sufficient
 7 force to rip off the lanyard.⁴⁰ Verhonich responded, “I’ve thought about this many of times, and
 8 that’s the only way that could have happened.”⁴¹

9 The trial judge reasonably discounted Verhonich’s testimony, stating: “Lanyards, as the
 10 testimony showed from people who use these . . . keys, just don’t pop out, especially if, as
 11 [Verhonich] said, they were just sliding off the boat.”⁴² The judge concluded that he “just
 12 [didn’t] find it believable that the lanyard slipped off his wrist. I don’t think it was on.”⁴³
 13 Though the judge also considered the bodycam evidence, in light of the other circumstantial
 14 evidence of Verhonich’s guilt and his uncredible testimony, I cannot conclude that the admission
 15 of the bodycam evidence substantially prejudiced Verhonich’s rights. So the admission of that
 16 evidence doesn’t warrant reversal of Verhonich’s conviction on count 3.

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 18 ³⁷ *Id.* at 207:23–208:7.

19 ³⁸ *Id.* at 219:14–15.

20 ³⁹ *Id.* at 219:16–17.

21 ⁴⁰ *Id.* at 219:18–21 (Prosecutor: “Okay. So the force of your falling off when the jet ski’s almost
 at a standstill—and you’re just sliding off—that force ripped the lanyard off of your hand and
 kept it inside the jet ski?”)

22 ⁴¹ *Id.* at 219:22–23.

23 ⁴² ECF No. 39 at 40:17–19 in trial-court case.

⁴³ *Id.* at 40:17–22.

1 **B. Sufficient evidence supports Verhonich’s conviction for negligent operation.**

2 Verhonich next contends that there was insufficient evidence to support his conviction for
 3 negligent operation of the jet ski leading up to the accident. Appellate courts “review the
 4 sufficiency of the evidence supporting a conviction de novo.”⁴⁴ “For a challenge to the
 5 sufficiency of the evidence following a bench trial, [courts] review ‘whether, after viewing the
 6 evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found
 7 the essential elements of the crime beyond a reasonable doubt.’”⁴⁵

8 Verhonich was convicted under 36 C.F.R. § 3.8(b)(8), which prohibits “operating a
 9 vessel . . . in a negligent manner, by failing to exercise that degree of care which a reasonable
 10 person, under like circumstances, would demonstrate in order to prevent the endangering of the
 11 life, limb, or property of a person(s) through the operator’s lack of knowledge, inattention, or
 12 general carelessness.”⁴⁶ He contends that the prosecution improperly relied on his failure to
 13 wear a life jacket or use the safety lanyard to support this charge because negligent operation
 14 encompasses only mechanical or operational negligence, not external factors that are

18 ⁴⁴ *United States v. Stackhouse*, 105 F.4th 1193, 1198 (9th Cir. 2024) (citing *United States v.*
 19 *Johnson*, 874 F.3d 1078, 1080 (9th Cir. 2017)). Verhonich moved for acquittal at the close of
 20 the government’s case but didn’t renew that motion at the close of his case. If this were a jury
 21 trial, that failure to renew would have resulted in a plain-error review of Verhonich’s
 22 sufficiency-of-the-evidence argument. *See United States v. Alvarez-Valenzuela*, 231 F.3d 1198,
 1201 (9th Cir. 2000). But because this is a bench trial, “no motion for acquittal is necessary . . .
 in order to preserve for appeal a challenge to the sufficiency of the evidence.” *United States v.*
Atkinson, 990 F.2d 501, 503 (9th Cir. 1993). So I apply de novo review.

23 ⁴⁵ *United States v. Laney*, 881 F.3d 1100, 1106 (9th Cir. 2018) (quoting *Atkinson*, 990 F.2d at
 502–03).

⁴⁶ 36 C.F.R. § 3.8(b)(8).

1 criminalized by other regulatory provisions.⁴⁷ Without that evidence for his other charges, he
 2 argues, there was insufficient evidence to support a conviction on this count.⁴⁸

3 **1. Verhonich has not shown that the judge was prohibited from considering**
 4 **evidence about life-jacket or safety-lanyard use when finding him guilty of the**
 5 **negligent-operation charge.**

6 I am not persuaded by Verhonich’s statutory interpretation. He contends that § 3.8(b) is
 7 “aimed squarely to address how an operator is steering or piloting a boat.”⁴⁹ And he argues that
 8 the negligent-operation subsection is informed by the preceding subsections of § 3.8(b), which
 9 he describes as limited to “actions involving the driving of the vehicle.”⁵⁰ The trial judge didn’t
 10 read the regulation so narrowly,⁵¹ and neither do I.

11 Contrary to Verhonich’s assertion, not all of the preceding subsections have to do with
 12 the mechanical operation or steering of a vessel. For example, § 3.8(b)(6) prohibits “operating a
 13 power-driven vessel while a person is riding on the decking over the bow, gunwales, top edge of
 14 the transom, motor cover, or in any other unsafe position when the vessel is being operated.”⁵²
 15 Subsection (b)(7) prohibits driving a vessel “with a person sitting, riding[,] or hanging on to a
 16 swim platform or swim ladder.”⁵³ As Verhonich points out, under the standard canons of
 17 statutory interpretation, “[w]hen a general term follows a specific one, the general term should be
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19 ⁴⁷ ECF No. 7 at 20–21.

20 ⁴⁸ *Id.* at 22–24.

21 ⁴⁹ *Id.* at 21.

22 ⁵⁰ *Id.*

23 ⁵¹ ECF No. 39 at 41:1–16 in trial-court case.

⁵² 36 C.F.R. § 3.8(b)(6).

⁵³ 36 C.F.R. § 3.8(b)(7).

1 understood as a reference to subjects akin to the one with specific enumeration.”⁵⁴ Here, the
 2 preceding subsections do not relate only to the act of driving a vessel, but encompass external
 3 situations that would make driving the vessel inherently unsafe. Verhonich fails to distinguish
 4 driving a watercraft while passengers are sitting in dangerous positions from driving one while
 5 passengers aren’t wearing personal-flotation devices. Nor does Verhonich explain how proper
 6 use of the emergency shut-off lanyard—a mechanical function of the jet ski itself—isn’t related
 7 to the operation of the vessel within the meaning of § 3.8(b)(8). So I cannot conclude that the
 8 trial judge erred by considering evidence of Verhonich’s life jacket or safety-lanyard use to
 9 determine his guilt on count 1.

10 **2. Sufficient evidence supports the negligent-operation conviction.**

11 There was also sufficient evidence, viewed in the light most favorable to the government,
 12 to convict Verhonich of negligent operation with or without evidence of his failure to wear a life
 13 jacket or use the safety lanyard. Both parties agree that the weather conditions worsened after
 14 Verhonich and Hatcher left the dock. But Verhonich himself testified that the waters were not
 15 calm when he set off that morning.⁵⁵ And Estoy testified that he experienced high winds and
 16 choppy water when he went out on his kayak at around the same time.⁵⁶ Estoy also said that he
 17 was surprised to see the jet ski moving at a high speed before the accident because of the high
 18 winds.⁵⁷

19 The prosecution also introduced evidence of Verhonich’s interview statements—made
 20 the day of the accident—during which he admitted that he “turn[ed] the wheel wrong” and

21 ⁵⁴ ECF No. 7 at 21 (quoting *Norfolk v. W. R. Co. v. Train Dispatchers*, 499 U.S. 117, 129
 22 (1991)).

23 ⁵⁵ ECF No. 38 at 182:4–8 in trial-court case.

⁵⁶ *Id.* at 19:18–20:3.

⁵⁷ *Id.* at 31:18–32:3.

1 “kinda made a sharp turn on accident.”⁵⁸ And at trial Verhonich testified that it wasn’t a wave or
 2 some other external factor that caused him or Hatcher to fall off the jet ski. When this evidence
 3 is viewed in the light most favorable to the government, a rational trier of fact could find beyond
 4 reasonable doubt that the accident was the result of Verhonich’s negligent turning maneuver in
 5 choppy, unsafe waters. Even without the additional facts regarding Verhonich’s lack of life
 6 jacket or safety lanyard, the trial court had sufficient evidence to convict Verhonich on the
 7 negligent-operation charge.

8 **C. The trial judge did not err in imposing a custodial sentence.**

9 Verhonich next contends that the trial judge abused his discretion when he disregarded
 10 Verhonich’s evidence suggesting that the convictions do not warrant custodial sentences and
 11 relied instead on his own anecdotal experience to impose a six-month sentence. Appellate courts
 12 review the substantive reasonableness of a sentence, as well as whether the trial judge relied on
 13 improper evidence during sentencing or properly considered the sentencing factors outlined in
 14 18 U.S.C. § 3553(a), for abuse of discretion.⁵⁹ Under the abuse-of-discretion standard, “a
 15 reviewing court cannot reverse unless it has a definite and firm conviction that the [trial] court
 16 committed a clear error of judgment in reaching its conclusion or based its decision on an
 17 erroneous conclusion of law.”⁶⁰

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 ⁵⁸ ECF No. 33 at 15, 49 in trial-court case.

21 ⁵⁹ *Gall v. United States*, 552 U.S. 38, 46, 51 (2007) (cleaned up) (holding that appellate courts
 22 “must first ensure that the district court made no significant procedural errors” like “failing to
 23 consider the [18 U.S.C.] § 3553(a) factors, selecting a sentence based on clearly erroneous facts,
 or failing to adequately explain a chosen sentence[,]” “and then consider the sentence’s
 substantive reasonableness under an abuse-of-discretion standard”).

⁶⁰ *United States v. Kallin*, 50 F.3d 689, 693 (9th Cir. 1995) (citations omitted).

1 **1. *The trial judge did not abuse his discretion by declining to consider sentencing***
 2 ***disparities with state vehicular-manslaughter cases.***

3 In his sentencing memorandum, Verhonich argued that the trial judge should consider a
 4 handful of sentences imposed in state-court vehicular-manslaughter cases, noting that “there is
 5 no comparable federal sentencing data or applicable Guidelines” for his misdemeanor negligent-
 6 operation conviction.⁶¹ He attached several cases demonstrating that “[t]he most common
 7 disposition” for state vehicular-manslaughter cases “included a combination of 6 months
 8 suspended sentence, 100 hours of community service, and traffic school.”⁶² He recommended a
 9 sentence in line with those dispositions: “12 months’ probation, with special conditions to
 10 include 100 hours of community service, not to enter the Lake Mead Recreation Area, and
 11 completion of the Nevada Boating Safety Course.”⁶³

12 At sentencing, the trial judge found that the state-court dispositions that Verhonich
 13 presented were “not overly persuasive . . . in terms of fashioning the sentence.”⁶⁴ Verhonich
 14 contends that the trial judge erroneously “dismissed this evidence out of hand,”⁶⁵ but that
 15 characterization is not supported by the record. The trial judge gave several reasoned
 16 explanations for his refusal to consider the state-court sentences that Verhonich provided. He
 17 first noted that courts in this circuit are not required to compare state and federal sentences in
 18 felony cases, and he didn’t “see a reason to treat misdemeanors differently.”⁶⁶ And indeed, the

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 20 ⁶¹ ECF No. 41 at 4 in trial-court case.

21 ⁶² *Id.* at 6; *see also* ECF No. 41-1 in trial-court case (exhibit containing dispositions of state-court
 vehicular-manslaughter convictions).

22 ⁶³ ECF No. 41 at 7 in trial-court case.

23 ⁶⁴ ECF No. 48 at 17:1–2 in trial-court case.

⁶⁵ ECF No. 7 at 26.

⁶⁶ ECF No. 48 at 17:2–7 in trial-court case.

1 Ninth Circuit has held that “a district court does not commit procedural error in its 18 U.S.C.
 2 § 3553(a) analysis if it does not consider disparities between state and federal sentences for the
 3 same criminal conduct.”⁶⁷ Verhonich does not argue that the trial judge’s reliance on that
 4 authority was erroneous, and I don’t find that it was.

5 The trial judge also concluded that the “factual underpinnings” of those state-court cases
 6 weren’t meaningfully comparable to Verhonich’s case, noting that most of his exemplar cases
 7 resulted from “guilty pleas, acceptance of responsibilities, [and] reductions in the charges.”⁶⁸
 8 Verhonich does not argue on appeal that the judge’s understanding of those state dispositions
 9 was clearly erroneous—he merely mischaracterizes the judge’s remarks as dismissing the
 10 disparity evidence “out of hand.” So because Verhonich hasn’t shown that the trial judge erred
 11 in his factual or legal determinations when he disregarded disparity evidence of dissimilar state-
 12 court sentences, reversal isn’t warranted on that basis.

13
 14 **2. The trial judge did not abuse his discretion by noting that convictions resulting
 in the death of another usually garner a custodial sentence.**

15 Verhonich’s primary allegation of reversible error stems from one statement by the
 16 sentencing judge. After rejecting the sentencing-disparity evidence Verhonich presented, the
 17 judge stated that his “anecdotal experience in State Court over 30 years is that when negligence
 18 or the actions of somebody causes a death, it does lead to incarceration.”⁶⁹ Verhonich contends
 19 that the judge’s reliance on any “anecdotal evidence” was improper. He cites to the Ninth
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22 _____
 23 ⁶⁷ *United States v. Ringgold*, 571 F.3d 948, 951 (9th Cir. 2009).

⁶⁸ *Id.* at 17:8–11.

⁶⁹ ECF No. 48 at 18:5–7 in trial-court case.

1 Circuit’s opinion in *United States v. Lewis*⁷⁰ for the proposition that a judge may not credit his
 2 “personal experience” over properly admitted evidence.⁷¹

3 In *Lewis*, the defendant admitted to committing a series of robberies while recovering
 4 from surgery and suffering from the effects of heroin withdrawal.⁷² She moved to suppress that
 5 confession, arguing that her statements were involuntary because she was under the effects of
 6 general anesthesia and withdrawal.⁷³ But the evidence suggested that, at the time she confessed,
 7 she “was alert and her answers to the agent’s questions were responsive.”⁷⁴

8 Despite that evidence, the trial court ruled that the statement was involuntary, and he
 9 based that finding solely on his “personal experience” with general anesthesia.⁷⁵ The judge
 10 commented that “people have told me that I said the most incredible things during the few first
 11 six hours or so after I came out of a general anesthetic,” and he opined that “you are not
 12 accountable for what you do or say for quite a number of hours after” a round of anesthesia.⁷⁶
 13 The Ninth Circuit reversed that ruling, holding that the judge “was not a competent witness to
 14 Lewis[’s] condition” and that he could not rely on his personal knowledge to take judicial notice
 15 of adjudicative facts.⁷⁷ And by relying on his own personal experience, the trial judge denied
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19 ⁷⁰ *United States v. Lewis*, 833 F.2d 1380 (9th Cir. 1987).

20 ⁷¹ ECF No. 7 at 26–27.

21 ⁷² *Lewis*, 833 F.2d at 1382–83.

22 ⁷³ *Id.*

23 ⁷⁴ *Id.* at 1384.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.* at 1385.

1 the parties “the opportunity to test the basis for the court’s opinion . . . through the usual methods
2 that assure trustworthiness in our adversarial system of justice.”⁷⁸

3 But the *Lewis* rule has little application to a judge’s sentencing discretion. “The Federal
4 Rules of Evidence do not apply at a sentencing hearing.”⁷⁹ And “[a]s a general proposition, a
5 sentencing judge ‘may appropriately conduct an inquiry broad in scope, largely unlimited as to
6 the kind of information he may consider, or the source from which it may come.’”⁸⁰ The
7 sentencing-factor statute, 18 U.S.C. § 3553(a), even directs courts to consider “the kinds of
8 sentences available.”⁸¹

9 *Lewis* is also factually inapposite. The sentencing judge here did not rely on his personal
10 experience or anecdotal evidence to discount or contradict any properly supported arguments
11 concerning sentencing disparities or what the appropriate sentence for Verhonich should be.
12 Instead, he rejected Verhonich’s comparative sentences because they were state sentences in
13 matters dissimilar from Verhonich’s case, noted that it was typical to experience jail time for
14 causing the death of another, and supported the custodial sentence he imposed with several other
15 considerations. I cannot conclude that the sentencing judge abused his discretion based on one
16 comment citing his understanding of typical sentences in cases like this.

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19 ⁷⁸ *Id.* at 1386.

20 ⁷⁹ *United States v. Christensen*, 732 F.3d 1094, 1102 (9th Cir. 2013).

21 ⁸⁰ *Nichols v. United States*, 511 U.S. 738, 747 (1994) (quoting *United States v. Tucker*, 404 U.S.
22 443, 446 (1972)); see also *United States v. Larios*, 640 F.2d 938, 942 (9th Cir. 1981) (“Judges
23 are given very broad discretion to consider information from a wide variety of sources when
sentencing because it is important for a sentencing judge to be able to fashion sentences properly
in tune with individual defendants.” (citations omitted)).

⁸¹ 18 U.S.C. § 3553(a)(3).

1 **3. *The custodial sentence imposed in this case was substantively reasonable.***

2 Verhonich also argues that a custodial sentence isn't substantively reasonable for his
3 circumstances. He again points to noncustodial sentences handed down in state-court vehicular-
4 manslaughter cases as evidence that his six-month sentence is unreasonable but, as discussed
5 supra, Verhonich hasn't shown that the judge abused his discretion by concluding that the
6 circumstances involved in those cases were dissimilar. Verhonich also contends that the "nature
7 and circumstances of the offense and the history and characteristics of the defendant" also
8 support a noncustodial sentence.⁸² He argues that he "lacks any serious criminal history" and
9 contends that this case "was, at its heart, a tragic accident" that doesn't warrant jail time.⁸³ And
10 he victim-blames, contending that Hatcher "was an adult who made her own choice whether to
11 ride the jet ski."⁸⁴

12 But a sentence need only be substantively reasonable. "A substantively reasonable
13 sentence is one that is sufficient, but not greater than necessary, to accomplish [18 U.S.C.] §
14 3553(a)(2)'s sentencing goals."⁸⁵ Appellate courts must "consider the totality of the
15 circumstances" when reviewing a sentence for substantive reasonableness.⁸⁶ A sentence is
16 reasonable when "the record as a whole reflects rational and meaningful consideration of the
17 factors enumerated in" § 3553(a).⁸⁷ Section 3553(a) requires courts to consider several factors
18 when fashioning an adequate sentence, including things like "the nature and circumstances of the
19

20 ⁸² ECF No. 7 at 28.

21 ⁸³ *Id.*

22 ⁸⁴ *Id.*

23 ⁸⁵ *United States v. Ressam*, 679 F.3d 1069, 1089 (9th Cir. 2012) (quoting *United States v. Crowe*, 563 F.3d 969, 977 n.16 (9th Cir. 2009)).

⁸⁶ *Id.* (quoting *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc))

⁸⁷ *Id.* (quoting *United States v. Tomko*, 562 F.3d 558, 568 (3d Cir. 2009) (en banc)).

1 offense and the history and characteristics of the defendant[.]" and "the need for the sentence
 2 imposed to reflect the seriousness of the offense, promote respect for the law, . . . to provide just
 3 punishment" and "to afford adequate deterrence to criminal conduct."⁸⁸ Courts must also
 4 consider the kinds of sentences available and "the need to avoid unwarranted sentence disparities
 5 among defendants with similar records who have been found guilty of similar conduct[.]"⁸⁹

6 Verhonich's attempted reweighing of the evidence doesn't show that the trial judge
 7 abused his discretion in seeing this case differently. The judge considered the nature and
 8 circumstances of the offense and concluded that Verhonich (who, as the operator of the jet ski,
 9 had the legal responsibility to ensure that his passengers followed basic safety requirements) was
 10 negligent in failing to make sure that he and Hatcher were wearing life jackets.⁹⁰ He concluded
 11 that, had Verhonich given Hatcher a life jacket, she likely would not have died.⁹¹ And he
 12 considered Verhonich's criminal history—which included an arrest for meth possession within
 13 weeks of being released on personal recognizance pending this trial—and concluded that
 14 Verhonich's actions following the accident indicated that Verhonich was not "understanding the
 15 gravity of what happened here."⁹² Finally, the judge reviewed evidence suggesting that
 16 Verhonich had little remorse for his role in Hatcher's death, noting that Verhonich has yet to
 17 show remorse.⁹³ The trial judge did not abuse his discretion by determining that those factors
 18 weighed in favor of a custodial sentence. So, finding no reversible error, I affirm Verhonich's
 19 conviction and sentence.

20 ⁸⁸ 18 U.S.C. § 3553(a)(1)–(7).

21 ⁸⁹ *Id.*

22 ⁹⁰ ECF No. 48 at 17:16–18:1.

23 ⁹¹ *Id.*

⁹² *Id.* at 18:25–19:4.

⁹³ *Id.* at 18:11–24.

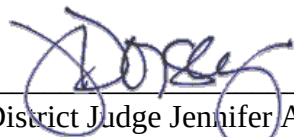
1 **D. Verhonich's motion for release pending appeal is moot.**

2 Verhonich moves to continue his self-surrender date until the conclusion of this appeal.
3 Because the appeal has now been resolved and his conviction and sentence have been affirmed,
4 his motion is moot. So I deny his motion and order Verhonich to self-surrender by March 7,
5 2025, as previously ordered.⁹⁴

6 **Conclusion**

7 IT IS THEREFORE ORDERED that Bryan Tyrone Verhonich's appeal **[ECF No. 1]** is
8 **DENIED**, and his conviction and sentence are **AFFIRMED**.

9 IT IS FURTHER ORDERED that Verhonich's motion for release on a personal-
10 recognizance bond pending appeal **[ECF No. 8]** is **DENIED as moot**.

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12 
13 U.S. District Judge Jennifer A. Dorsey
14 February 28, 2025
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⁹⁴ See ECF No. 20.

Appendix D

United States v. Verhonich,
2:23-mj-00315-DJA, Dkt. 46
(D. Nev. Nov. 6, 2024)
Judgement of Conviction

UNITED STATES DISTRICT COURT

District of Nevada

UNITED STATES OF AMERICA

v.

BRYCE TYRONE VERHONICH

Judgment in a Criminal Case
(For a Petty Offense)

Case No. 2:23-mj-00315-DJA-1

USM No. 45153-511

Joanne Diamond, AFPD

Defendant's Attorney

THE DEFENDANT:

☐ **THE DEFENDANT** pleaded ☐ guilty ☐ nolo contendere to count(s) _____

☒ **THE DEFENDANT** was found guilty on count(s) one, two and three of the Amended Complaint (ECF no. 26)

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
36 CFR § 3.8(b)(8)	Negligent Operation	6/30/2022	1
36 CFR § 3.9 (b)(1)	No Personal Floatation Device	6/30/2022	2
36 CFR § 3.9 (b)(2)	Failure to Attach Engine Cut-Off Switch Lanyard	6/30/2022	3

The defendant is sentenced as provided in pages 2 through 7 of this judgment.

☐ **THE DEFENDANT** was found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: 9724

11/5/2024

Date of Imposition of Judgment

Defendant's Year of Birth: 1976

City and State of Defendant's Residence:

Dolan Springs, Arizona

Signature of Judge

Daniel J. Albregts, U.S. Magistrate Judge

Name and Title of Judge

11/06/2024

Date

DEFENDANT: BRYCE TYRONE VERHONICH
CASE NUMBER: 2:23-mj-00315-DJA-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of :

Six (6) months as to counts one and two to run concurrently to one another for a total term of six (6) months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The closest facility to Dolan Springs, Arizona

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 12 p.m. on 2/7/2025 .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: BRYCE TYRONE VERHONICH

CASE NUMBER: 2:23-mj-00315-DJA-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 30.00	\$	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$ 0.00	\$ 0.00	

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution or a fine of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: BRYCE TYRONE VERHONICH
CASE NUMBER: 2:23-mj-00315-DJA-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A** ☒ Lump sum payment of \$ 30.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below); or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of probation will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names, Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTa assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

DEFENDANT: BRYCE TYRONE VERHONICH
CASE NUMBER: 2:23-mj-00315-DJA-1

PROBATION

You are hereby sentenced to probation for a term of: Two (2) years as to count three (3)

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*
7. ☐ You must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. *(check if applicable)*
8. You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.
10. You must notify the court of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments.

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: BRYCE TYRONE VERHONICH
CASE NUMBER: 2:23-mj-00315-DJA-1

STANDARD CONDITIONS OF SUPERVISION

As part of your probation, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of the time you were sentenced, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the specific risks posed by your criminal record and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the specific risks posed by your criminal record.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: BRYCE TYRONE VERHONICH

CASE NUMBER: 2:23-mj-00315-DJA-1

SPECIAL CONDITIONS OF SUPERVISION

1. Search and Seizure – You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

2. Place Restriction – Types of Establishments – You must not knowingly enter any Lake Mead National Recreational Area without first obtaining the permission of the probation officer.

3. Mental Health Treatment – You must participate in an outpatient mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.)

4. Community Service – You must complete 100 hours of community service within the two years of probation. The probation officer will supervise the participation in the program by approving the program (agency, location, frequency of participation,