

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-3173

September Term, 06-3173

06cr00129-01

Filed On: May 10, 2007 [1039686]

United States of America,  
Appellee

v.

Charles Washington, Jr,  
Appellant

## ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**BEFORE:** Rogers, Brown, and Kavanaugh, Circuit Judges

### J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that appellant's sentence be affirmed. Appellant is not entitled to a remand for his ineffective assistance of counsel claim because the record conclusively shows he is not entitled to relief. See United States v. Rashad, 331 F.3d 908, 909-10 (D.C. Cir. 2003). Although appellant argues his counsel failed to inform the district court of the government's alleged promise to recommend probation, appellant's sentencing counsel did in fact raise this issue with the court, and the court determined that no such promise was made by the government. As for appellant's challenge to the restitution amount, the district court did not abuse its discretion by calculating restitution based on the loss suffered by the government as a result of appellant's conduct, regardless whether appellant personally enjoyed the full benefit of the proceeds. See 18 U.S.C. §§ 3663, 3664(f)(1)(A); United States v. Dorcelly, 454 F.3d 366, 377 (D.C. Cir. 2006); United States v. Jimenez, 77 F.3d 95, 99-100 (5<sup>th</sup> Cir. 1996).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 06-3173**

**September Term, 06-3173**

is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY:

Deputy Clerk/LD