

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-3089

September Term, 2007

01cr00086-01

Filed On: January 11, 2008

[1091682]

United States of America,
Appellee

v.

Jerry Austin,
Appellant

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

BEFORE: Rogers, Garland, and Griffith, 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 the district court's judgment, filed May 19, 2005, be affirmed.

The district court committed no legal error, and appellant's sentence was reasonable in light of the sentencing factors in 18 U.S.C. § 3553(a). See United States v. Olivares, 473 F.3d 1224, 1226 (D.C. Cir. 2006). The district court recognized its authority to depart from the Sentencing Guidelines and declined to do so, which was reasonable in light of the circumstances in this case. Id. at 1231. The district court also did not err in calculating the government's loss in this case. See 18 U.S.C. § 3664(f); United States v. Leonzo, 50 F.3d 1086, (D.C. Cir. 1995). Further, the court did not abuse its discretion in the restitution order, see United States v. Rezaq, 134 F.3d 1121, 1141 (D.C. Cir. 1998), nor did it commit clear error in imposing the fine, see United States v. Gewin, 471 F.3d 197, 202 (D.C. Cir. 2006). Finally, appellant has not demonstrated that he was prejudiced by his trial counsel's allegedly deficient performance. See Strickland v. Washington, 466 U.S. 668, 687, 694 (1984).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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