

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 23, 2008

Charles R. Fulbruge III
Clerk

No. 07-40545
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ANTOINE NELSON

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:06-CR-115-ALL

Before KING, DAVIS and CLEMENT, Circuit Judges.

PER CURIAM:*

Antoine Nelson appeals his sentence following his guilty-plea for assaulting an employee of the United States in violation of 18 U.S.C. § 111(a)(1) & (b). Nelson's sole argument on appeal is that the district court erred in applying U.S.S.G. § 2A2.2 based on its finding that the boiling water thrown by Nelson onto a corrections officer was a "dangerous weapon" under the Guidelines. Nelson argues that under § 2A2.2 a "dangerous weapon" refers only to "instruments" and not to substances, such as water. Nelson does not refute,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

however, the district court's finding that the assault caused serious bodily injuries.

Nelson has failed to demonstrate any error in the district court's finding that the hot water, in the manner used and in light of the injuries sustained, was a "dangerous weapon" under § 2A2.2. Accordingly, the judgment of the district court is AFFIRMED.