

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10956
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT LYNN BELL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:93-CR-302-T
- - - - -

April 17, 1996

Before REAVLEY, DUHÉ and WIENER, Circuit Judges.

PER CURIAM:*

Robert Lynn Bell appeals from the district court's decision to depart upward from the sentencing guidelines. He contends that the district court erred by imposing his 240-month sentence to run consecutively to his state sentences. Bell argues that U.S.S.G. § 5K2.3, p.s. requires a finding by the district court that the victim suffered psychological injury much more serious than that normally resulting from the commission of the offense and that the evidence in the record did not support such a

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

finding. Because the Government produced un rebutted evidence that the victim had suffered a substantial impairment of her psychological and behavioral functioning that was likely to be of an extended duration and that was manifested by psychological symptoms or by changes in behavior patterns, see § 5K2.3, p.s., the district court did not abuse its discretion by departing upward pursuant to § 5K2.3. See United States v. Anderson, 5 F.3d 795 (5th Cir. 1993), cert. denied, 114 S. Ct. 1118 (1994).

AFFIRMED.