

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10480
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES N. JACKSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:96-CR-124-A)

March 4, 1998

Before JOHNSON, EMILIO M. GARZA, and SMITH, Circuit Judges.

PER CURIAM:*

Charles N. Jackson appeals the sentence imposed after his guilty-plea conviction for bank theft. Specifically, Jackson argues that the district court erred in its determination of the amount of loss establishing his base offense level and in failing to use the guideline for attempt offenses.

This Court reviews the application of the Sentencing Guidelines de novo and the district court's finding of fact for clear error. United States v. Wimbish, 980 F.2d 312, 313 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th CIR.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

1992), cert. denied, 508 U.S. 919 (1993). After a careful review of the record, the arguments, and the authorities, the Court concludes that the district court did not err in measuring the amount of loss based on the total amount of worthless checks Jackson and his coconspirators deposited rather than by the amount he and his coconspirators withdrew. See United States v. Sowels, 998 F.2d 249, 250-52 (5th Cir. 1993), cert. denied, 510 U.S. 1121 (1994); Wimbish, 980 F.2d at 314-16. Further, because Jackson completed the acts necessary to complete the offense, the Sentencing Guideline for attempt offenses was not applicable. Therefore, the district court did not err in choosing not to use it.

AFFIRMED.