

May 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-31027
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID BRIAN PUGH,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 03-CR-60018-ALL

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

David Brian Pugh pleaded guilty to one conspiracy charge and one fraud charge. The district court upwardly departed at sentencing and sentenced Pugh to 96 months in prison and a three-year term of supervised release. Pugh now appeals his sentence, arguing only that the extent of the district court's departure was unreasonable. Because Pugh challenges only the extent of the district court's departure, we need not analyze the recent changes to review of upward departures set out in amended 18

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S.C. § 3742(e). See United States v. Lee, 385 F.3d 315, 326-29 (5th Cir. 2004). Rather, we need only consider whether the extent of the departure was reasonable. See Williams v. United States, 503 U.S. 193, 203 (1992); United States v. Ashburn, 38 F.3d 803, 807 (5th Cir. 1994) (en banc).

A review of this court's jurisprudence controverts Pugh's arguments and shows that the extent of the district court's departure, although substantial, was not unreasonable. See United States v. Daughenbaugh, 49 F.3d 171, 173-74 (5th Cir. 1995); Ashburn, 38 F.3d at 806; United States v. Rosogie, 21 F.3d 632, 633 (5th Cir. 1994). Accordingly, there is no abuse of discretion, and the judgment of the district court is AFFIRMED.