

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-41590

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PATRICK BOUVIER WASHINGTON,

Defendant - Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(1:98-CR-11-ALL)

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July 19, 1999

Before WIENER, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Patrick Bouvier Washington appeals his sentence, following a guilty-plea conviction for bank fraud under 18 U.S.C. § 1344(a).

First, Washington contests his U.S.S.G. § 3C1.1 obstruction of justice enhancement, a factual finding we review only for clear error. *E.g.*, **United States v. Upton**, 91 F.3d 677, 687 (5th Cir. 1996). We find none, given Washington's refusal to provide a handwriting exemplar even in the face of a grand-jury subpoena and court order. Other circuits have found such refusal to constitute § 3C1.1 obstruction of justice. See **United States v. Valdez**, 16 F.3d 1324, 1335 (2nd Cir.), *cert. denied*, 513 U.S. 810 (1994);

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

**United States v. Ruth**, 65 F.3d 599, 608 (7th Cir. 1995); **United States v. Reyes**, 908 F.2d 281, 290 (8th Cir. 1990), *cert. denied*, 499 U.S. 908 (1991); **United States v. Taylor**, 88 F.3d 938, 943-44 (11th Cir. 1996); *cf.* **Upton**, 91 F.3d at 688 (refusal under grand jury subpoena to produce business records warrants § 3C1.1 enhancement).

Second, Washington challenges the denial of a § 3E1.1 acceptance-of-responsibility reduction, a determination reviewed "even more deferential[ly] than a pure 'clearly erroneous' standard", **United States v. Gonzales**, 19 F.3d 982, 983 (5th Cir. 1994), and on which the defendant has the burden of proof, **United States v. Tremelling**, 43 F.3d 148, 152 (5th Cir. 1995). We find no reversible error, given Washington's obstruction of justice, failure to plead guilty until a jury was impaneled, and denial of relevant conduct described in his Presentence Report. See § 3E1.1, application note 4 (obstruction of justice under § 3C1.1 normally shows lack of acceptance of responsibility); *id.*, application note 3 (guilty pleas *prior to trial* show acceptance of responsibility, and failure to admit relevant conduct shows lack of acceptance).

**AFFIRMED**