

October 21, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-21341  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEVEN DALE WHORTON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CR-272-ALL  
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Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Steven Dale Whorton appeals from his sentence for bank robbery. Whorton contends that the district court erred by adjusting his offense level for obstruction of justice, pursuant to U.S.S.G. § 3C1.1.

Whorton's adjustment was based on an attempt to escape by scraping mortar from the bricks near his bed, then covering the scraped area with toothpaste. The district court's finding that Whorton had attempted to obstruct justice was not clearly

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

erroneous. See *United States v. Upton*, 91 F.3d 677, 687 (5th Cir. 1996). Nothing in the record indicates a connection between mental-health or drug-abuse issues and Whorton's actions.

Rather, the evidence indicates that Whorton acted on a desire to escape and covered up his actions. Whorton "'voluntarily and intentionally' attempted to escape, which satisfies the 'willfullness' requirement under U.S.S.G. § 3C1.1." *United States v. Cisneros*, 112 F.3d 1272, 1280 (5th Cir. 1997).

AFFIRMED.