

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40091  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

LOE'S HIGHPORT INC

Defendant - Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:97-CR-71-4  
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October 2, 2002

Before KING, Chief Judge, and SMITH and DENNIS, Circuit Judges.

PER CURIAM:\*

Loe's Highport, Inc., (LHI) appeals the \$4,000,000 fine it received on remand after this court reversed three counts of conviction for money laundering. See United States v. Loe, 248 F.3d 449, 454 (5th Cir.) cert. denied, 122 S. Ct. 397 (2001). LHI argues that, although the amount of the fine was the same as the original fine, it was a harsher sentence because it was divided among fewer counts, and therefore, vindictive.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The Supreme Court held in North Carolina v. Pearce, 395 U.S. 711 (1969), that the Due Process Clause forbids the imposition of a more severe sentence upon resentencing after an appellate reversal because of the possibility of judicial vindictiveness. Under the "aggregate package" approach adopted by this court in United States v. Campbell, 106 F.3d 64, 66 (5th Cir. 1997), the fine LHI received on remand is not more severe than the original sentence, and therefore, is not vindictive. LHI's argument that this court should deviate from the "aggregate package" approach is without merit.

The sentence on remand is AFFIRMED.