

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40351
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NANCY KELLEY THETFORD COOPER,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:02-CR-101-ALL

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Nancy Kelley Thetford Cooper appeals her sentence following her guilty plea conviction of bank fraud. Cooper argues that the district court abused its discretion in departing upward from the Sentencing Guidelines range and that the district court erred in refusing to group the present offense with an offense for which Cooper had previously been sentenced. The district court did not abuse its discretion, as the district court relied upon

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

permissible factors not already taken into consideration by the Sentencing Guidelines in deciding to depart. See United States v. Ravitch, 128 F.3d 865, 871 (5th Cir. 1997); U.S.S.G. § 4A1.3 (1998). The district court did not err in refusing to group the present offense with an offense for which Cooper had previously been sentenced. See United States v. Tolbert, 306 F.3d 244, 247-48 (5th Cir. 2002).

AFFIRMED.