

June 2, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30565
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AYODELE OLOWOYO,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:03-CR-20066

Before JONES, Chief Judge, and DeMOSS and STEWART, Circuit
Judges.

PER CURIAM:*

Ayodele Olowoyo appeals from his conviction of conspiracy. He contends that his 36-month sentence, which was above the 24-30 month guideline sentencing range, was unreasonable because it was based on his relatively privileged socioeconomic background. Olowoyo's contention, which he raises for the first time on appeal, is unconvincing.

We review Olowoyo's contention under the plain-error standard,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

see FED. R. CRIM. P. 52(b), and he cannot demonstrate reversible plain error based on reliance on an impermissible factor if the district court could have imposed the same sentence based on permissible factors. See United States v. Jones, ___ F.3d ___, No. 05-60152, 2006 WL 766691 at *6 (5th Cir. Mar. 27, 2006). In Olowoyo's case, the district court relied in part on the fact that Olowoyo "caused a lot of trouble for a lot of people." Indeed, the presentence report indicated that Olowoyo's offense affected a total of 57 credit card accounts. The district court could have imposed a reasonable 36-month sentence based on the number of victims in the offense. See United States v. Davenport, 286 F.3d 217, 220-21 (5th Cir. 2002).

AFFIRMED.