

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-60434  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LARRY E. FOLEY,  
also known as Sealed Defendant 1,  
doing business as Kountry Tyme Sports Foundation,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:97-CR-8-ALL-WS  
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Larry E. Foley appeals his sentence from his guilty-plea convictions for wire fraud and aiding and abetting arguing that the district court erred in determining the amount of loss attributable to him under U.S.S.G. § 2F1.1(b)(1). Our review of the record and the arguments and authorities convinces us that no reversible error was committed. The district court's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

calculation of intended loss was not error. See United States v. Ismoila, 100 F.3d 380, 396 (5th Cir. 1996). Foley's assertion that the district court erred in departing upward was not adequately briefed and is thus deemed waived on appeal. See United States v. Valdiosera-Godinez, 932 F.2d 1093, 1099 (5th Cir. 1991).

AFFIRMED.