

July 12, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-21182
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRYAN E. CULWELL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-95-CR-31-ALL

Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Bryan E. Culwell appeals the district court's sentence imposed following revocation of his supervised release. Culwell pleaded guilty in 1995 to four counts of bank fraud, in violation of 18 U.S.C. § 1344, and he was sentenced to concurrent 42-month terms of imprisonment, to be followed by concurrent five-year terms of supervised release. The district court found that Culwell violated the condition of supervised release prohibiting him from engaging in commercial paper/check cashing transactions

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that exceeded \$200, and he was sentenced to consecutive terms of imprisonment totaling 72 months.

For the first time on appeal, Culwell argues that the two-year delay between his supervised release violations and the probation officer's filing of the petition to revoke violated Culwell's rights to due process. Culwell further argues, also for the first time, that his total 72-month sentence was plainly unreasonable. Both parties agree that Culwell's arguments are subject to plain error review.

Under the plain error standard, this court may correct a forfeited error only when the appellant establishes 1) there is an error, 2) that is clear or obvious, and 3) that affects his substantial rights. United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc)(citing United States v. Olano, 507 U.S. 725, 731-37 (1993)). We have reviewed the record and the briefs of the parties and hold that Culwell fails to demonstrate plain error with respect to his arguments. See United States v. Tyler, 605 F.2d 851, 853 (5th Cir. 1979); United States v. Tippens, 39 F.3d 88, 90 (5th Cir. 1994); United States v. Gonzalez, 250 F.3d 923, 930 (5th Cir. 2001).

AFFIRMED.