

December 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30407
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES W. THIBODAUX, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:03-CR-10013-ALL

Before KING, Chief Judge, and DeMOSS and CLEMENT, Circuit Judges.

PER CURIAM:*

James W. Thibodaux, Jr., appeals his sentence following his guilty plea to making false statements to a bank and obstructing an audit by making false entries in the records of a financial institution. Thibodaux argues that the district court improperly enhanced his sentence based on facts not alleged in the bill of information, not proven to a jury beyond a reasonable doubt, nor admitted by him in violation of Blakely v. Washington, 124 S. Ct. 2531 (2004). As Thibodaux concedes, this argument is foreclosed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

by United States v. Pineiro, 377 F.3d 464, 473 (5th Cir. 2004),
petition for cert. filed (U.S. July 14, 2004) (No. 04-5263).

Thibodaux states that he raises the issues to preserve them for
further review.

AFFIRMED.