

FILED

August 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40264
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TRAVIS EUGENE KIRKPATRICK,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. V-03-CR-64-ALL

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

Travis Eugene Kirkpatrick appeals following his guilty-plea conviction of aiding and abetting possession of a counterfeited security with intent to deceive another person or organization. He argues that the district court erroneously calculated his sentence because he should have been held accountable only for the six checks that he cashed and the victims involved, rather than for all of the organization's intended loss occurring after he joined it and for the victims of that loss.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court could fairly infer a joint undertaking whose scope encompassed the check-cashing activities of the other members of the organization from the fact that Kirkpatrick participated with the other members in selecting the cities and stores in which to cash the checks and the fact that he coordinated his check cashing with the other members. See United States v. Evbuomwan, 992 F.2d 70, 74 (5th Cir. 1993); U.S.S.G. § 1B1.3, comment. (n.2). The cashing of checks by the other members of the organization was both in furtherance of the organization's jointly undertaken criminal activity and reasonably foreseeable in connection with it. See U.S.S.G. § 1B1.3, comment. (n.2).

AFFIRMED.