

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

April 17, 2008

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No. 07-10531  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROBERT EON MARSHALL, also known as Bruce Charles Harmon

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:06-CR-197-ALL

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Before JOLLY, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Robert Eon Marshall appeals the 120-month sentence imposed following his guilty plea conviction for mail fraud. Marshall argues that the district court abused its discretion in imposing an upward departure pursuant to U.S.S.G § 4A1.3(a) based on an under-representation of his criminal history and a likelihood of recidivism. He contends that the district court's reasons for upwardly departing are inadequate and do not support a departure under § 4A1.3(a).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

“An upward departure by a district court is not an abuse of discretion if the court’s reasons for departing 1) advance the objectives set forth in 18 U.S.C. § 3553(a)(2) and 2) are justified by the facts of the case.” *United States v. Zuniga-Peralta*, 442 F.3d 345, 347 (5th Cir.), cert. denied, 126 S. Ct. 2954 (2006) (internal quotation marks and citation omitted). Marshall’s upward departure meets those criteria. The district court considered the factors of § 3553(a) and articulated the objectives served in imposing an upward departure. Marshall’s similar prior offenses, his disregard for court orders, and the use of aliases signify a likelihood of recidivism. The district court did not abuse its discretion. See *Zuniga-Peralta*, 442 F.3d at 347.

Accordingly, the judgment of the district court is **AFFIRMED**.