

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 91-2736  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID L. LYTLE,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Southern District of Texas  
(CR H 91 0040 01)

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( December 17, 1992 )

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

In this appeal, David Lytle, who pled guilty to a conspiracy to produce false birth certificates and to transfer them through the mail, attacks his sentence on various grounds. He was sentenced to imprisonment for 24 months, a fine of \$500, supervised release for three years, and a \$50 assessment fee.

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\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

After reviewing the briefs and the record in this case, we have concluded that the district court committed no reversible error. We think that the district court's findings as to all contested facts adequately address the objections that were raised in this case; that the district court did not err in concluding that the defendant was not entitled to reduction for acceptance of personal responsibility for his criminal conduct, that the district court did not err in finding that Lytle's criminal history category does not reflect his actual history; that, in departing from the guideline range, the district court adequately explained its reasons for its upward departure; and, finally, we hold that the sentence does not "border" on cruel and unusual punishment: the sentence of imprisonment is clearly within the statutory maximum, as is the supervised release term, and the \$5,000 fine.

The district court's sentence of David Lytle is therefore

A F F I R M E D.