

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3442

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

DWIGHT MCKENNA,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CR 91 446 A)

(December 2, 1992)

Before REAVLEY, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Following his jury conviction of making false statements on his tax returns, Dwight McKenna presents only one issue on appeal: whether his attorney should have been permitted to ask leading questions in cross-examining McKenna's accountant, Michael Bruno. We affirm, concluding that the district court did not err in refusing to allow McKenna's attorney carte blanche leave to employ leading questions.

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

There was no showing that Bruno, who at the time was still serving as McKenna's accountant, was at all hostile; in fact, the district court found that he was a witness friendly to the defense. Even so, the court offered to allow leading questions as to the strategic matter McKenna's counsel presented in chambers, to-wit, whether Bruno had erred in not ensuring that McKenna had not confused gross income with net income. The court showed a willingness to allow other leading questions if the need arose. Nevertheless, McKenna's attorney decided not to cross-examine Bruno at all.

We conclude that, in so deciding this matter, the district court afforded McKenna his right of confrontation under the Sixth Amendment. Moreover, Fed. R. Evid. 611(c) does not require leading questions in all circumstances. There being no error, the judgment of conviction is AFFIRMED.