IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1638
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LINCOLN CLINTON NATHAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:93-CR-26 "A")

(June 30, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.[*]

PER CURIAM:

Two issues are raised in this appeal from a sentencing decision of the district court following Nathan's guilty plea in connection with a scheme to obtain and use credit cards fraudulently. Nathan contends that the amount of loss was incorrectly calculated by the district court and that the court should have granted him a two-level reduction for acceptance of responsibility. We find no error and affirm.

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Our review of the court's finding on both of these issues is governed by the clearly erroneous rule. So viewing the record, we cannot conclude that the district court's findings were wrong.

Although some of the losses attributed to the credit card scheme were stipulated, Nathan objected to the district court's inclusion of a $21,000 loss from the Magee credit card account and an additional $48,000 loss deriving from six accounts to which Nathan did not stipulate. Contrary to Nathan's argument, the court found sufficient evidence in the PSR and from the testimony at sentencing to infer that Nathan was personally involved in the conduct leading to these disputed losses. The court's finding that these losses constituted conduct jointly undertaken with unknown other defendants, the issue on which Nathan stakes his appeal, is simply an alternate finding. The inferences were sufficient to sustain a finding of Nathan's personal involvement in the disputed accounts. The court was permitted to find that a number of starter checks from Bethany Bank had been stolen at the same time and were a common thread linking the disputed accounts with those accounts Nathan admitted opening. Both the disputed and undisputed fraudulent credit card accounts were opened within a one-year span from 1991 through early 1992. The modus operandi of all of the account openings and thefts was similar. Additionally, Nathan originally declined to contest the loss on the Magee account but then withdrew his admission at the last minute. The court did not err in attributing the disputed losses to Nathan.

Nathan also asserts that the district court unfairly penalized him for contesting the PSR by denying his reduction for acceptance of responsibility. We disagree. The court decided that he had falsely denied or frivolously contested the losses attributable to the disputed credit card accounts. Particularly as to the Magee account, the court found that Nathan's sudden change of position in regard to his culpability was self-serving and opportunistic. No reversible error is shown.

The sentence imposed by the district court is **AFFIRMED**.