

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-2464  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FORREST EVETTE JACKSON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR H 92 170

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(September 20, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

The district court included all the elements of 26 U.S.C. § 7203 in the failure-to-file jury charge. Forrest Evette Jackson's argument that the jury charge was deficient because it did not specify that the Government was required to prove that Jackson knew she was required to file income tax returns is unavailing. Jackson's knowledge that she was required to file an income tax return was substantially covered in the "willfully" jury charge. That charge stated that to prove that Jackson acted willfully, the Government must prove that she voluntarily and

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

intentionally violated a known legal duty. Because the denied instruction was substantially covered in the "willfully" charge submitted to the jury, Jackson's argument fails. See United States v. Arditti, 955 F.2d 331, 339 (5th Cir.), cert. denied, 113 S. Ct. 597 (1992), and cert. denied, 113 S. Ct. 980 (1993).

Jackson also argues that the district court's refusal to submit the jury charge in question seriously impaired her ability to present defenses. This Court need not resolve that argument because the Arditti test is conjunctive, not disjunctive, and requires Jackson to make a tripartite showing which she has not done. See Arditti, 955 F.2d at 339. The relevant segment of the denied instruction was substantially covered in the "willfully" instruction; the argument fails.

AFFIRMED.