

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3579  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OCIE C. ANDERSON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR 92-517 LIM  
- - - - -  
(March 25, 1994)

Before KING, DAVIS, and DeMoss, Circuit Judges.

PER CURIAM:\*

Ocie C. Anderson appeals his sentence in a guilty-plea conviction for conspiracy to obtain a controlled substance. He argues that the district court misapplied U.S.S.G. § 5K1.1, p.s., because it ignored the extent of his cooperation and failed to give substantial weight to the Government's evaluation of his assistance.

This Court upholds a guidelines sentence unless it is

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

imposed in violation of law or is the result of incorrect application of the guidelines or is a departure from the applicable guideline range and is unreasonable. United States v. Buenrostro, 868 F.2d 135, 139 (5th Cir. 1989), cert. denied, 495 U.S. 923 (1990). "Where, as here, the trial court has sentenced a defendant within the guideline range, appellate review is limited to determining whether the guidelines were correctly applied. United States v. Soliman, 954 F.2d 1012, 1013 (5th Cir. 1992). "[T]he language of 5K1.1 is replete with permissive rather than mandatory language." United States v. Damer, 910 F.2d 1239, 1240 (5th Cir.), cert. denied, 498 U.S. 991 (1990). This Court reviews the district court's application of § 5K1.1 for abuse of discretion. Id. at 1241.

At sentencing, the district court stated that Anderson had one of the longest records of arrest that it had ever seen and that Anderson was a genius at getting charges dismissed. The district court chose the upper end of the guidelines range because of Anderson's extensive criminal record. There was no abuse of discretion. The district court necessarily had to strike a balance between the "`chilling' effect on subsequent efforts to gain valuable assistance from confessed criminals" and a signal of "softness." Damer, 910 F.2d at 1241.

AFFIRMED.