

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3897

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

THOMAS BELL,

Defendants-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
(CR 92-523 I)

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(November 7, 1994)

Before JONES and DeMOSS, Circuit Judges, and SHAW\*, District Judge.

EDITH H. JONES, Circuit Judge:\*\*

Thomas Bell pled guilty to a charge of knowingly threatening bodily injury to two New Orleans Police Officers. Bell's only contention on this appeal is that the district court erred in finding that he was motivated by the officers' official status and adjusting his base offense level upward because of that finding.

The Sentencing Guidelines provide for a three-level

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\* Chief Judge of the Western District of Louisiana, sitting by designation.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

upward adjustment if "the victim was a government officer or employee . . . and the offense of conviction was motivated by such status . . . ." U.S.S.G. § 3A1.2(a). The district court found that Bell was motivated by the officers' official status and adjusted Bell's sentence accordingly.

Factual findings under the sentencing guidelines are upheld unless clearly erroneous. United States v. Gonzales, 996 F.2d 88, 91 (5th Cir. 1993). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." United States v. United States Gypsum Co., 333 U.S. 364, 395, 68 S.Ct. 525, 542 (1948). A review of the record confirms that the finding of the district court was not clearly erroneous.

**AFFIRMED.**