IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 93-7188
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLA M. SWANN,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. CR-E92-00017-L-N

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(October 29, 1993)

Before POLITZ, Chief Judge, and SMITH and WIENER, Circuit Judges.

PER CURIAM:[*]

The calculation of the amount of loss is a factual finding reviewed for clear error. United States v. Wimbish, 980 F.2d 312, 313 (5th Cir. 1992), cert. denied, 113 S.Ct. 2365 (1993). A factual finding is not clearly erroneous if it is plausible in light of the record as a whole. Id.

Pursuant to U.S.S.G. § 2B1.1(b)(1), the base offense level of 4 is enhanced on a graduated scale according to the amount of the victim's loss. Application Note 2 to § 2B1.1 defines loss as

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

"the value of the property taken, damaged, or destroyed," which is ordinarily "the fair market value of the particular property at issue." The district court is not required to determine the loss with precision and may infer it "from any reasonably reliable information available." § 2B1.1, comment. (n.3).

The district court's loss calculation is plausible in light of the record as a whole. The court relied on the probation officer's inventory shrinkage calculation which came to $106,216.50. This figure was actually one-half of the total estimated amount of shrinkage, but was used because not all of the unacceptable increase in inventory shrinkage could be attributed to the conspiracy.

Given the difficulty in determining the amount of loss attributable to a conspiracy that continued for nearly one year, the district court did not clearly err in arriving at a total loss figure based upon the amount of inventory shrinkage. Kerry Keeter, a special agent with the United States Naval Investigative Service testified at the sentencing hearing that the $13,994 figure relied upon by Swann did not adequately account for the entire amount of theft attributable to the conspiracy. In contrast, the district court's loss calculation was based on a reasonably reliable measure supported by the record. Accordingly, the sentence is AFFIRMED.