

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8119

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUANITA MUNNS BANDY,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Western District of Texas  
(P-92-CR-38-2)

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(June 24, 1994)

Before GARWOOD, JOLLY, and SMITH, Circuit Judges.

PER CURIAM:\*

Appellant Bandy asserts three grounds challenging the sentence imposed by the district court. We will uphold a sentence unless it was (1) imposed in violation of the law; (2) imposed as a result of an incorrect application of the guidelines; or (3) was outside the range of the applicable guidelines and was unreasonable. United States v. Ebertowski, 896 F.2d 906, 908 (5th Cir. 1990).

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Bandy's first argument, that self-incriminating statements she made while cooperating with the government were improperly used in calculating her guideline offense level, was not raised before the district court. We therefore review for plain error. United States v. Lopez, 923 F.2d 47, 50 (5th Cir. 1991). Because the information obtained from Bandy was also provided by two other witnesses in their conversations with the government, there was no plain error.

Bandy next argues that the district court failed to determine whether she suffered from an extraordinary physical impairment. The record, however, reflects that the district court addressed this issue and resolved it against Bandy. Therefore, Bandy's argument on appeal is without merit.

Finally, Bandy argues that the district court misunderstood its authority under U.S.S.G. § 5H1.4, which allows a district court to make a downward adjustment based on an extraordinary physical condition. The record reflects, however, that the district court did not misunderstand its authority, but rather, based on the proof, declined to make the downward departure requested by Bandy.

For the foregoing reasons, the judgment is

A F F I R M E D.