

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10855
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE JAIMES, a/k/a Tony,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 94-CR-113-T

- - - - -
March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

For the first time on appeal, Jaimes argues that the district court erred by holding him accountable for the criminal acts of James Doolin.

Under Fed. R. Crim. P. 52(b), this court may correct forfeited errors only when the appellant shows the following factors: (1) there is an error, (2) that is clear or obvious, and (3) that affects his substantial rights. United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc)(citing

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

United States v. Olano, 113 S. Ct. 1770, 1776-79 (1993)), cert. denied, 1995 WL 36679 (U.S. Feb. 27, 1995)(No. 94-7792). If these factors are established, the decision to correct the forfeited error is within the sound discretion of the court, and the court will not exercise that discretion unless the error seriously affects the fairness, integrity or public reputation of judicial proceedings. Olano, 113 S. Ct. at 1778.

A defendant's base offense level may be assessed on both actions with which the defendant was directly involved [under § 1B1.3(a)(1)(A)], and actions that can be attributed to the defendant in a conspiracy as part of his relevant conduct under § 1B1.3(a)(1)(B). United States v. Carreon, 11 F.3d 1225, 1230 (5th Cir. 1994). Relevant conduct includes "all reasonably foreseeable acts and omissions of others in furtherance of the jointly undertaken criminal activity." § 1B1.3(a)(1)(B)).

The district court increased Jaimes' base offense level based on trafficking of 25-99 sets of false documents. Jaimes signed a factual resume admitting that he "was partners with Doolin in a scheme to entice aliens to illegally reside in the United States." At sentencing, Jaimes testified that he worked with Doolin for four to five months and delivered between twenty and thirty fraudulent birth certificates. INS Agent Jack Newburn testified that Doolin manufactured the birth certificates and other documents and Jaimes delivered the documents and acted as a recruiter and interpreter. Newburn testified that 77 blank birth certificates and approximately 200 false documents were recovered from Doolin's father's office, constituting between 25 and 50

"completed sets of documents." Jaimes admitted that he had previously seen some of the documents that were taken from the office. The district court reviewed the inventory list of documents recovered from Doolin and determined that there were 32 completed sets of documents.

The district court did not commit plain error in finding Jaimes accountable for production of 25-99 sets of documents.

AFFIRMED.