

THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 94-30431
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEVE EARL,

Defendant-Appellant.

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Appeal from the United States District Court for the
Eastern District of Louisiana
(CR-93-352-N)

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November 14, 1995

Before WISDOM, GARWOOD and JONES, Circuit Judges.*

PER CURIAM:

Given all the circumstances of this case, the trial court's asserted *Allen* charge does not constitute reversible error. The charge was only given once, deliberations had not been truly lengthy, an unrelated jury question and the court's answer followed, the jury had with it the court's written charge with its

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

instruction on not surrendering a conviction and on reasonable doubt, and the asserted *Allen* charge was not affirmatively coercive and lacked the typical elements found in such a charge which generally require ameliorative, balancing instructions. In essence, the charge was little, if anything, more than an instruction to deliberate further. Nor do we find any abuse of discretion in the court's answer to the jury's question. The question was precise and focused, and the court's brief answer was indisputably correct and not misleading. The court was not required to tell the jury that they had to rely on their own recollection, the only alternative suggested by appellant. Appellant did not request, or suggest as an alternative, the reading of any other testimony. Nor do these two complaints in combination present any grounds for reversal.

Accordingly, the judgment is

AFFIRMED.