

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10544
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAHN MICHAEL PHILLIPS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:95-CR-30-A
- - - - -

May 1, 1996

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Jahn Michael Phillips appeals his sentence from his guilty-plea conviction to bank fraud, in violation of 18 U.S.C. §§ 1344. The district court did not clearly err by using the potential loss to calculate the amount of loss for the offense. See United States v. Wimbish, 980 F.2d 312, 315-16 (5th Cir. 1992), cert. denied, 508 U.S. 919 (1993). The district court did not clearly err by enhancing Phillips' offense level for more than minimal

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

planning. See United States v. Clements, 73 F.3d 1330, 1340 (5th Cir. 1996). The district court did not clearly err by enhancing Phillips' offense level for his role as an organizer or leader. United States v. Watson, 988 F.2d 544, 550 (5th Cir. 1993), cert. denied, 114 S. Ct. 698 (1994). Because deferred adjudications following guilty pleas are rateable in determining criminal history under the sentencing guidelines, the district court did not err by using Phillips' Texas state deferred adjudications to calculate his criminal history category. See United States v. Giraldo-Lara, 919 F.2d 19, 22-23 (5th Cir. 1990).

AFFIRMED.