

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-60356
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RONNIE JEROME LANG,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 94-CR-64-1
- - - - -

December 20, 1995

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Ronnie Jerome Lang argues that the district court erred in refusing to depart downward at sentencing because of his youth and because he had not committed any prior offenses. Lang contends that his conduct was aberrant behavior which has not been considered by the Sentencing Commission in establishing the sentencing guidelines.

* Local Rule 47.5.1 provides: "The publication of opinions that 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Lang's conduct did not reflect spontaneous or thoughtless behavior. Rather, the record demonstrates that Lang and Lewis devised a plan to steal a vehicle and a firearm, and they then traveled across the country for several days until they found an isolated location for a bank robbery. Their course of action was planned and calculated. Lang's lack of prior convictions was taken into account in the determination that he was entitled to a criminal history category of I under the sentencing guidelines. The district court's determination that a departure was not warranted based on aberrant behavior or Lang's lack of prior convictions was not error.

This appeal is frivolous. The issue raised is without arguable merit and thus frivolous. Counsel is admonished that all counsel are subject to sanctions. Counsel has no duty to bring a frivolous appeal. The opposite is true. See United States v. Burleson, 22 F.3d 93, 95 (5th Cir.), cert. denied, 115 S. Ct. 283 (1995). The appeal is DISMISSED as frivolous. See 5th Cir. R. 42.2.