

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-20976

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC DESHAWN STEELE,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Southern District of Texas  
(H-96-CR-74-3)

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October 9, 1997

Before WISDOM, JOLLY, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

After a review of the record and a study of the briefs, we conclude that the decision of the district court should be affirmed. This court reviews the trial court's legal interpretation of the United States Sentencing Guidelines de novo and may reverse the district court's factual findings only for clear error. United States v. Gooden, 116 F.3d 721, 723 (5th Cir. 1997). The district court correctly imposed a three-point upward

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\*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

adjustment based upon Steele's deferred adjudication. Under the reasoning recently set out by the court in Gooden, Steele's deferred adjudication constitutes a "prior sentence" for purposes of the relevant enhancement provision of the Guidelines. Gooden, 116 F.3d at 723-25; U.S.S.G. § 4A1.1(a). Furthermore, the district court's factual finding that Steele was not a minor participant is not clear error. The district court's sentence imposition is

A F F I R M E D.