

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-31005  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES M. LEWIS, DEBRA FAYE LEWIS,

Defendants-Appellants.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 94-CR-20001-01

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May 27, 1999

Before Jolly, Smith, and Wiener, Circuit Judges.

PER CURIAM:\*

James M. Lewis and Debra Faye Lewis appeal from their resentencing on remand for the beating death of James's four-year-old daughter on a federal enclave. The PSRs provided that the doctors had observed the following injuries to the victim's body: multiple contusions to the child's left ear; multiple lacerations and bruises of different ages on her face and bruises on her lips; an old scar on her left ear from a burn; multiple loop marks, linear bruises, and cuts to the abdomen and chest; scars from burns on the child's chest and left shoulder; bruises of different ages

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\*Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

up and down both arms with evidence of old and new cuts; multiple linear lacerations and large bruises of different ages on the legs; multiple bruises and whip or loop marks on the back; wounds on the back that were freshly bleeding and some that were older and healing; and skin across both buttocks that was rough and peeling. Further, the PSRs noted that the only areas of the child's body spared from injury were the palms, soles, and genitals. The doctors noted that some of the wounds appeared to have been made with a loop or cord, a belt buckle, a coat hanger, and a fly swatter. The doctors could not guess what made several areas of linear, parallel wounds on the victim's chest, arms, and back, however. The defendants argue that the district court abused its discretion by departing upward from the guidelines seven levels pursuant to U.S.S.G. § 5K2.8 for extreme conduct. It is thus clear that the district court made no reversible error in its upward departure. See Koon v. United States, 518 U.S. 81 (1996). Accordingly, the judgments of the district court are

A F F I R M E D.