

February 13, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-11045
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PHILLIP JOSEPH CROW,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:05-CR-55

Before BARKSDALE, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:*

Phillip Joseph Crow pleaded guilty to assault of a federal employee and using and carrying a firearm during a crime of violence. See 18 U.S.C. §§ 111(a)(1), 111(b), and 1114; 18 U.S.C. § 924(c)(1)(A). He appeals the sentence imposed for his assault offense. Crow asserts that a six-level enhancement to his offense level under U.S.S.G. § 3A1.2(b) was improper because the enhancement was based on the district court's clearly erroneous finding that Crow's assault was motivated by the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

victim's status as a government employee. Based on the record as a whole, such a finding was plausible and therefore not clearly erroneous. See United States v. Gonzales, 436 F.3d 560, 584 (5th Cir. 2006).

Accordingly, the judgment of the district court is AFFIRMED.