

January 6, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50719
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TONIA ANISSIA DAVIS, also known as Tonia Davis,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. W-02-CR-66-3

Before BARKSDALE, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Tonia Anissia Davis appeals the sentence imposed following her guilty-plea conviction for conspiracy to make, utter, and possess a counterfeit United States Security in violation of 18 U.S.C. §§ 371, 513(a). We review the district court's findings of fact at sentencing for clear error, and its application of the sentencing guidelines de novo. United States v. Anderson, 174 F.3d 515, 524 (5th Cir. 1999).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Davis argues that the district court erred in finding that all of the checks seized were passable when determining the total amount of the loss involved in this case. With respect to all of the checks, except for one, check number 87561466, payable to Velma Ervin in the amount of \$1,395.20, Davis has not shown that the district court clearly erred in finding them to be passable. See Anderson, 174 F.3d at 524. Whether the district court erred in finding the \$1,395.20 check to be passable is arguable. However, even assuming error, such error is harmless because Davis' guideline imprisonment range would have remained the same and there is no indication in the record that the specific amount of the loss within the applicable range of loss affected the district court's selection of the 18-month sentence imposed. See Williams v. United States, 503 U.S. 193, 203 (1992).

AFFIRMED.