

FILED

February 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10523
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCISCO TURLINGTON,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:02-CR-222-ALL-A

Before JONES, BENAVIDES and CLEMENT, Circuit Judges.

PER CURIAM:*

Francisco Turlington appeals his 24-month sentence following his guilty-plea conviction for making false statements to federal investigators. The investigation stemmed from allegations that Turlington, a correctional officer, was having sexual relations with female inmates. The investigation confirmed that Turlington had 30 sexual encounters with six different inmates.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Turlington contends that the district court erred in departing upward to a sentence of 24 months' imprisonment. Turlington argues that the district court's justification for the upward departure, that U.S.S.G. §§ 3D1.2 and 3D1.4 would assign one unit for each sexual encounter, as opposed to one unit per victim, and that the resulting guideline range did not adequately reflect the seriousness of the crimes, was incorrect.

Whether the standard of review is abuse of discretion or de novo, the district court did not err in its grouping analysis under U.S.S.G. § 3D1.4. See United States v. Bell, 351 F.3d 672, 675-77 (5th Cir. 2003); U.S.S.G. § 3D1.4. Moreover, the district court gave acceptable reasons for departing, and the extent of the departure was reasonable. See United States v. Ashburn, 38 F.3d 803, 807 (5th Cir. 1994)(en banc).

AFFIRMED.