

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4326

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES PATRICK MONDELL,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, District Judge. (CR-04-109)

Submitted: January 4, 2006

Decided: January 11, 2006

Before KING and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

William N. Nettles, Columbia, South Carolina, for Appellant.
Jonathan S. Gasser, United States Attorney, Kevin F. McDonald, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

James Patrick Mondell appeals the forty-one-month sentence imposed upon him on February 17, 2005, in the District of South Carolina. His sentence followed his guilty plea to a single offense of conspiring to file false income tax claims, in contravention of 18 U.S.C. § 286. In connection with his guilty plea, Mondell entered into a plea agreement with the Government, which included several sentencing stipulations.

On appeal, Mondell contends that the district court erred in cross-referencing § 2T1.1 of the Sentencing Guidelines, because that provision was not included in the plea agreement's sentencing stipulations. As Mondell acknowledges, however, the agreement expressly provides that "[t]he Defendant understands that these stipulations are not binding upon the Court." J.A. 19. On these plain terms, the court was not bound by the plea agreement's sentencing stipulations, and we must accordingly affirm Mondell's sentence. We dispense with oral argument because the facts and legal contentions of this appeal are adequately presented in the materials before the Court and argument would not aid us in the decisional process.

AFFIRMED