

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-4729**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FESTUS AWONISE ALARAN,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T.S. Ellis III, Senior District Judge. (1:06-cr-00050-TSE)

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Submitted: May 30, 2007

Decided: July 5, 2007

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Before WILKINSON, KING, and DUNCAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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John O. Iweanoge II, THE IWEANOGES' FIRM, P.C., Washington, D.C., for Appellant. Chuck Rosenberg, United States Attorney, Michael J. Frank, Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Festus Awonise Alaran was convicted for using or attempting to use a non-immigrant visa for entry into the United States knowing the visa to have been procured by means of any false claim or statement or to have been otherwise procured by fraud, or unlawfully obtained, in violation of 18 U.S.C.A. § 1546(a) (West Supp. 2007) (hereinafter "visa fraud"). Alaran was sentenced to time served, which was five months of imprisonment. On appeal, he argues that: (1) there was insufficient evidence to show he knew the visa at issue was fraudulent, and (2) the district court erred by declining his instruction on "mistake of fact." For the reasons that follow, we affirm.

First, viewing the evidence as required, Glasser v. United States, 315 U.S. 60, 80 (1942), we find that there was sufficient evidence of Alaran's mens rea or "guilty knowledge" regarding the falsity of his visa. See United States v. Oloyede, 982 F.2d 133, 137 (4th Cir. 1992) (discussing guilty knowledge element); Bland v. United States, 299 F.2d 105, 108 (5th Cir. 1962) (same). Second, we do not find that the district court abused its discretion in denying Alaran's proposed instruction on "mistake of fact." United States v. Ruhe, 191 F.3d 376, 384 (4th Cir. 1999).

Accordingly, we affirm Alaran's conviction for visa fraud. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED