

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4820

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARL W. STEWARD,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. John T. Copenhaver, Jr., District Judge. (2:09-cr-00228-1)

Submitted: January 4, 2011

Decided: January 18, 2011

Before DUNCAN, AGEE, and KEENAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mary Lou Newberger, Federal Public Defender, Jonathan D. Byrne, Appellate Counsel, Edward H. Weis, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. R. Booth Goodwin II, United States Attorney, Thomas C. Ryan, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carl Steward pleaded guilty to tax evasion, in violation of 26 U.S.C. § 7201 (2006). At the sentencing hearing, the district court determined that the total amount owed by Steward in unpaid taxes exceeded \$80,000. Accordingly, the court applied a base offense level of 16, pursuant to U.S. Sentencing Guidelines Manual ("USSG") §§ 2T1.1 and 2T4.1 (tax table) (2009). After calculating the appropriate level increases and decreases, the district court determined that Steward's total offense level was 17 and his criminal history category was I, yielding an advisory Guidelines range of twenty-four to thirty months. The district court sentenced Steward to twenty-four months.

Steward now appeals, claiming that the amount of unpaid taxes on which the district court relied in calculating his offense level did not reflect the deductions that Steward could have claimed had he filed accurate tax returns. Steward concedes that his argument is foreclosed by our opinion in United States v. Delfino, 510 F.3d 468 (4th Cir. 2007), and we agree.

Accordingly, we conclude that the district court did not err. We affirm the district court's judgment. 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