

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-4628

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CAROLE LUCILLE COOPER,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Joseph Robert Goodwin, District Judge. (CR-00-262)

Submitted: April 25, 2002

Decided: May 2, 2002

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

Dismissed by unpublished per curiam opinion.

Carl J. Dascoli, Jr., MICHAEL R. CLINE LAW OFFICES, Charleston, West Virginia, for Appellant. Kasey Warner, United States Attorney, Miller A. Bushong, III, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Carole Lucille Cooper pled guilty to conspiracy to commit money laundering, 18 U.S.C.A. § 1956(h) (West 2000), and was sentenced to a term of seventy months imprisonment. Cooper seeks to appeal her sentence, arguing that the district court erred in declining to depart below the guideline range on the ground that the number of criminal history points she had accumulated over-represented the seriousness of her prior criminal conduct. U.S. Sentencing Guidelines Manual § 4A1.3, p.s. (2000).

A defendant may not appeal the sentencing court's decision not to depart below the guideline unless the court's decision resulted from an erroneous belief that it lacked the authority to depart. United States v. Bayerle, 898 F.2d 28, 31 (4th Cir. 1990). Here, the district court acknowledged that it had the authority to depart under § 4A1.3, but determined that a departure was not appropriate.

We therefore dismiss the appeal. 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.

DISMISSED