

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

THOMAS C. BAILEY,
Defendant-Appellant.

No. 03-4005

Appeal from the United States District Court
for the Southern District of West Virginia, at Charleston.
Charles H. Haden II, District Judge.
(CR-01-251)

Submitted: July 23, 2003

Decided: September 11, 2003

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

Affirmed by unpublished per curiam opinion.

COUNSEL

Mary Lou Newberger, Federal Public Defender, David R. Bungard,
Assistant Federal Public Defender, Charleston, West Virginia, for
Appellant. Kasey Warner, United States Attorney, Karen B. George,
Assistant United States Attorney, Charleston, West Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Thomas Clayton Bailey was convicted of embezzling labor organization funds, or aiding and abetting the same, in violation of 18 U.S.C. § 2 (2000), 29 U.S.C. § 501(c) (2000), and making a false statement of material fact on a labor organization report, in violation of 29 U.S.C. § 439(b) (2000). Bailey appeals his convictions and sentence. We affirm.

First, Bailey asserts the evidence was insufficient to sustain his convictions. We review this claim to determine whether, taking the evidence in the light most favorable to the Government, any reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Glasser v. United States*, 315 U.S. 60, 80 (1942). Bailey's claim is meritless. The evidence, viewed in the light most favorable to the Government, proved each element of Bailey's offenses. *See In re Winship*, 397 U.S. 358, 364 (1970).

Second, Bailey asserts the district court erred in enhancing his sentence for obstruction of justice, based on Bailey's testimony regarding several deposits he made. We review a district court's application of the sentencing guidelines enhancement for obstruction of justice for clear error. *United States v. Puckett*, 61 F.3d 1092, 1095 (4th Cir. 1995). The district court did not clearly err in determining Bailey's testimony was false on material matters or that it supported an enhancement for obstruction of justice. *U.S. Sentencing Guidelines Manual* § 3C1.1, comment. (n.4(b)) (2002); *United States v. Dunningan*, 507 U.S. 87, 92-98 (1993); *United States v. Jones*, 308 F.3d 425, 428 n.2 (4th Cir. 2002), *cert. denied*, 123 S. Ct. 1372 (2003); *United States v. Hairston*, 46 F.3d 361, 375 (4th Cir. 1995).

Accordingly, we affirm Bailey's convictions and sentence. 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 in the decisional process.

AFFIRMED