

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-4514**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GARY HANNA,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (CR-04-344)

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Submitted: January 27, 2006

Decided: March 8, 2006

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Before LUTTIG, MOTZ, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Parks N. Small, Federal Public Defender, Columbia, South Carolina, for Appellant. Jonathan S. Gasser, United States Attorney, William E. Day, II, Assistant United States Attorney, Florence, South Carolina; Thomas E. Booth, DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

A jury found Gary Hanna guilty of twelve counts of wire fraud, in violation of 18 U.S.C.A. § 1343 (West Supp. 2005), and three counts of making a false statement to obtain a bank loan, in violation of 18 U.S.C.A. § 1014 (West Supp. 2005). On appeal, Hanna contends the district court erred in enhancing his offense level under the sentencing guidelines based upon intended loss without taking into consideration that some of the funds were recovered. Hanna further claims the court erred in enhancing his offense level because some of the victims were unusually vulnerable. Finding no error, we affirm.

We find no error in the district court's decision to use the intended loss rather than the actual loss in determining an increase to the offense level. See U.S. Sentencing Guidelines Manual § 2B1.1(b), comment. n.3(A) (2004). We further find no error in the court declining to consider the amount of money recovered by the various lending agencies. United States v. Rothberg, 954 F.2d 217, 219 (4th Cir. 1992); see also United States v. Staples, 410 F.3d 484, 490-91 (8th Cir. 2005).

We further find no error in the district court's decision to apply a two-level enhancement because some of the victims were unusually vulnerable. See USSG § 3A1.1, comment. n.2.; see also United States v. Hoogenboom, 209 F.3d 665, 670 (7th Cir. 2000).

Accordingly, we affirm the 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 the decisional process.

AFFIRMED