

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 95-5926

JAMES A. CLEMENT,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of West Virginia, at Beckley.
Elizabeth V. Hallanan, District Judge.
(CR-92-195)

Submitted: May 14, 1996

Decided: August 6, 1996

Before WILKINS, NIEMEYER, and LUTTIG, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Hunt L. Charach, Federal Public Defender, C. Cooper Fulton, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Rebecca A. Betts, United States Attorney, John L. File, 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Unpublished opinions are not binding precedent in this circuit.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:

James Clement appeals the district court's order revoking his supervised release and imposing a sentence of twenty-four months incarceration. Clement contends that the district court clearly erred when it found that he had violated the terms of his supervised release¹ by committing a second-degree sexual assault² upon an elderly woman at the nursing home where he was employed. Finding that the district court's factual determination was not clearly erroneous, we affirm.

At the revocation proceedings, the district court found the victim of the assault to be highly credible and her testimony compelling. The victim testified that Clement forcibly assaulted her while giving her a bath alone in her room at the nursing home. When she told Clement to stop, Clement refused. Additionally, the nursing home administrator and director of nursing testified to the victim's reputation for veracity, and that they had never known her to lie, exaggerate, or suffer from delusions. Further, the victim's description of the assault remained consistent from the time she reported the assault until she testified in court.

Under such circumstances, we cannot find that the district court abused its discretion in revoking Clement's supervised release; therefore, we affirm the district court's revocation of Clement's supervised release.³ 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

¹ 18 U.S.C.A. § 3583(e)(3) (West Supp. 1994).

² W. VA. CODE § 61-8B-4 (1992).

³ See United States v. Stephenson, 928 F.2d 728, 731 (6th Cir. 1991).