

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 99-4590

VICTOR MANUEL LIRIANO,
Defendant-Appellant.

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 99-4608

VINICIO TAVAREZ, a/k/a Isael Rivera
Roman,
Defendant-Appellant.

Appeals from the United States District Court
for the District of South Carolina, at Spartanburg.
Margaret B. Seymour, District Judge.
(CR-99-201)

Submitted: January 20, 2000

Decided: February 2, 2000

Before WILLIAMS, MICHAEL, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Leesa Washington, Assistant Federal Public Defender, Greenville, South Carolina; Edward M. Sauvain, Greenville, South Carolina, for Appellants. J. Rene Josey, United States Attorney, David C. Stephens, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Victor Manuel Liriano and Vinicio Tavaréz each pled guilty to one count of uttering counterfeit obligations of the United States, see 18 U.S.C. §§ 472, 2 (1994), and were sentenced to terms of sixteen months and forty-six months imprisonment, respectively. They appeal their sentences, raising the identical issue--that the district court erred in adjusting their sentences by two levels upon finding that they used a minor to commit the offense. See U.S. Sentencing Guidelines Manual § 3B1.4 (1998). We affirm.

On February 10, 1999, Tavaréz, Liriano, Sandra Diaz, and a sixteen-year-old male were arrested after they passed counterfeit bills at two stores in Gaffney, South Carolina. The juvenile was prosecuted in state court. Tavaréz, Liriano, and Diaz all entered guilty pleas to the federal offense of uttering counterfeit obligations. Tavaréz admitted that he manufactured the counterfeit bills in New York a few days before the arrest. He and Liriano acknowledged that the minor was present in the store during the offense, but neither admitted giving counterfeit bills to the minor or encouraging him to present the bills to the store owner. At the sentencing hearing, both defendants argued that there was no evidence they had acted affirmatively by "directing, commanding, encouraging, intimidating, counseling, training, procur-

ing, recruiting, or soliciting" the minor's involvement. USSG § 3B1.4, comment. (n.1). Through counsel, they suggested that the juvenile might have volunteered to pass the bills without any attempt on either defendant's part to involve him. However, the district court found that, because Tarez had manufactured the bills and the defendants had transported the minor to the stores where the counterfeit bills were passed, it was a reasonable inference that the defendants had given the bills to the minor. The court thus found that the adjustment was appropriate as relevant conduct for both defendants under USSG § 1B1.3(a)(1)(B) (defendant is responsible for acts of others in jointly undertaken criminal activity).

Tarez and Liriano argue on appeal that the district court erred because the government presented no evidence to support a finding that they acted in any way to involve the minor. Because the district court's ruling turned on a factual finding, our review is for clear error. See United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989). We are unable to say that the district court clearly erred in concluding that the defendants acted in some way to involve the minor in the offense.

We therefore affirm the 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