

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-4083**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GREGORY KENT HUFFER,

Defendant - Appellant.

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**No. 00-4084**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMEY LOWELL BRYANT,

Defendant - Appellant.

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Appeals from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (CR-99-128)

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Submitted: June 15, 2000

Decided: June 21, 2000

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Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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R. Clarke VanDervort, Charleston, West Virginia; Mary L. Newberger, FEDERAL PUBLIC DEFENDER'S OFFICE, Charleston, West Virginia, for Appellants. Rebecca A. Betts, United States Attorney, Philip H. Wright, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gregory Kent Huffer and Jamey Lowell Bryant each pled guilty to aiding and abetting an attempted armed bank robbery in violation of 18 U.S.C.A. § 2113(a), (d) (West Supp. 2000), 18 U.S.C. § 2 (1994). Huffer was sentenced to a term of fifty-one months imprisonment. Bryant received a sentence of thirty-seven months imprisonment. Huffer and Bryant appeal their sentences, contending that the district court erred when it failed to depart on the ground of aberrant conduct. See U.S. Sentencing Guidelines Manual Ch. 1, Pt. A, 4(d) (1998) (departure permitted for "single acts of aberrant behavior"). We dismiss the appeals for lack of jurisdiction.

In sentencing each defendant, the district court specifically acknowledged its authority to depart for aberrant behavior. The court nonetheless decided that a departure was not warranted in either case. In this circumstance, the district court's exercise of its discretion is not reviewable on appeal. See United States v. Bayerle, 898 F.2d 28, 31 (4th Cir. 1990); see also United States v. Brock, 108 F.3d 31, 33 (4th Cir. 1997).

We therefore dismiss the appeals. 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