

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-4812**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JEFFREY RANDALL BREEDEN,

Defendant - Appellant.

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Appeal from the United States District Court for the Western Dis-  
trict of Virginia, at Lynchburg. Norman K. Moon, District Judge.  
(CR-00-70020)

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Submitted: February 21, 2002

Decided: March 4, 2002

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Before WILKINS, MOTZ, and TRAXLER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Robert E. Woodford, Colorado Springs, Colorado, for Appellant.  
Eileen J. O'Connor, Assistant Attorney General, Robert E. Lindsay,  
Alan Hechtkopf, S. Robert Lyons, UNITED STATES 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Unpublished opinions are not binding precedent in this circuit.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:

Jeffrey R. Breeden was convicted by a jury of two counts of attempted income tax evasion, 26 U.S.C. § 7201 (1994), and two counts of willful failure to file tax returns, 26 U.S.C. § 7203 (1994), for which he was sentenced to thirty-six months imprisonment. Breeden appeals, claiming that the district court erred in refusing to give two proffered jury instructions. We review the district court's refusal to give a requested jury instruction for abuse of discretion. United States v. Russell, 971 F.2d 1098, 1107 (4th Cir. 1992); United States v. Lozano, 839 F.2d 1020, 1024 (4th Cir. 1988). A district court has discretion to choose among proposed instructions and to determine the content of its charge to the jury, Russell, 971 F.2d at 1107, as long as, when "viewed as a whole in the context of the trial, the charge was not misleading and contained an adequate statement of the law to guide the jury's determination," United States v. Park, 421 U.S. 658, 675 (1975).

Viewing the jury instructions in the context of the entire trial, we conclude that they were proper in all respects. We therefore find no abuse of discretion. Accordingly, we affirm. 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