

January 12, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 06-50521  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM PAUL SHAVER,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Western District of Texas  
No. 6:05-CR-148-ALL  
-----

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

William Shaver pleaded guilty without a written plea agreement to theft of mail matter (Count 1), altering a financial obligation (Count 2), possessing counterfeit obligations (Count 3), and access device fraud (Count 4). The district court sentenced him to 60 months of imprisonment as to Count 1, and it upwardly departed from the guidelines range to sentence him to 120 months of imprisonment

---

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

as to Counts 2, 3, and 4, with all of the sentences running concurrently.

Shaver argues for the first time on appeal that the court plainly erred in failing to give him reasonable notice that it was contemplating an upward departure and in failing to provide the particular grounds on which such a departure would be based. Because, however, the presentence report ("PSR") provided Shaver with adequate information to give him an opportunity to comment on the upward departure, the court did not plainly err. See United States v. Milton, 147 F.3d 414, 420-21 (5th Cir. 1998).

Shaver contends the court erred in failing to provide specific written reasons for its upward departure as is required by required by 18 U.S.C. § 3553(c)(2). But, the court's written statement of the guideline section pursuant to which it upwardly departed, fortified by more specific statements in the PSR and at sentencing concerning the facts of the case and the reasons for the departure, satisfied § 3553(c)(2). See United States v. Zuniga-Peralta, 442 F.3d 345, 347-49 (5th Cir.), cert. denied, 126 S. Ct. 2954 (2006).

AFFIRMED.