

United States Court of Appeals

Fifth Circuit

FILED

February 3, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 03-30509

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GEORGE CELESTINE; TELLY GALLIEN,

Defendants-Appellants.

(Consolidated with)

No. 03-30511

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TRAVIS GALLIEN; SIDNEY GALLIEN,

Defendants-Appellants.

**Appeals from the United States District Court
for the Western District of Louisiana
USDC No. 6:01-CR-60127-1**

Before JONES, BENAVIDES and CLEMENT, Circuit Judges.

PER CURIAM:*

In this consolidated appeal, George Celestine, Telly Gallien, Travis Gallien, and Sidney Gallien appeal the denial of a motion to dismiss the indictment based on double jeopardy grounds following a mistrial. The defendants argue that the Government intentionally engaged in prejudicial conduct, thereby forcing the defendants to move for a mistrial.

The district court granted the mistrial based on the prejudicial effect of four errors which occurred during the trial. The district court's finding that the Government did not intentionally goad the defendants into moving for a mistrial was not clearly erroneous. See United States v. Gonzalez, 76 F.3d 1339, 1342 (5th Cir. 1996); Oregon v. Kennedy, 456 U.S. 667, 676 (1982). Accordingly, the district court's denial of the motion to dismiss the indictment on double jeopardy grounds is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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