

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-11590

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JUNE 2, 2011 JOHN LEY CLERK

D.C. Docket No. 1:07-cv-03218-WBH

THOMAS F. BONAVENTURA

Plaintiff-Counter-
Defendant-Appellee,

versus

UNITED STATES OF AMERICA

Defendant-Counter-
Claimant-Third Party Plaintiff-
Appellant,

GREGORY A. SMITH,

Third Party Defendant.

Appeal from the United States District Court
for the Northern District of Georgia

(June 2, 2011)

Before HULL, BLACK and STAPLETON,* Circuit Judges.

PER CURIAM:

After review and oral argument, we conclude the Appellant United States of America has not demonstrated reversible error in the district court's order dated December 14, 2009 which entered judgment in favor of the Appellee Thomas F. Bonaventura. Even concluding the presumption of official regularity applies, the evidence creates factual issues for the fact-finder, and we cannot say there was insufficient evidence to support the district court's fact findings and conclusions of law.

AFFIRMED.

*Honorable Walter K. Stapleton, United States Circuit Judge for the Third Circuit, sitting by designation.