

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 15-12719  
Non-Argument Calendar

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D.C. Docket No. 1:14-cr-00380-ODE-LTW-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DIRK ANTONIOUS ENGRAM, JR.,  
a.k.a. Dirk Antonious Engram,

Defendant - Appellant.

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

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(December 29, 2015)

Before HULL, WILLIAM PRYOR, and JORDAN, Circuit Judges.

PER CURIAM:

Dirk Engram appeals his two concurrent 28-month sentences imposed after he pled guilty to two counts of extortion under color of official right. *See* 18 U.S.C. § 1951. On appeal, Mr. Engram contends that the district court erred by applying a four-level enhancement, pursuant to U.S.S.G. § 2C1.1(b)(3), for an offense involving a public official in a sensitive position because he was a first-year prison guard in probationary status. After a thorough review of the record and the parties' briefs, we affirm.

## I

We review Mr. Engram's challenge to the district court's application of the Sentencing Guidelines *de novo*. *See United States v. Louis*, 559 F.3d 1220, 1224 (11th Cir. 2009).

The Sentencing Guidelines provided for a four-level enhancement if "the offense involved an elected public official or any public official in a high-level decision-making or sensitive position." U.S.S.G. § 2C1.1(b)(3). A high-level decision-making or sensitive position is "a position characterized by a direct authority to make decisions for, or on behalf of, a government department, agency, or other government entity, or by a substantial influence over the decision-making process." *Id.* § 2C1.1, comment. (n.4(A)). Examples of "a public official who holds

a sensitive position” include “a juror, a law enforcement officer, an election official, and any other similarly situated individual.” *Id.*<sup>1</sup>

A law enforcement officer holds a sensitive position, and a prison guard is a law enforcement officer. Moreover, the district court noted, a prison guard—even one on probationary status—has the authority and ability to directly and significantly influence what comes in and out of a prison facility with the decisions he makes. *See United States v. Dodd*, 770 F.3d 306, 312 (4th Cir. 2014) (holding that a prison guard is a sensitive position under § 2C1.1(b)(3) because a person in that position has the power to affect the integrity and workings of the judicial and law enforcement system). The district court therefore did not err by applying the four-level enhancement to Mr. Engram.

## II

Mr. Engram’s sentence is affirmed.

**AFFIRMED.**

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<sup>1</sup> The commentary was amended in 2004 to advance the notion that officers need not be in a supervisory position to be considered “sensitive.” The amendment deleted the word “supervisory” from the example “supervisory law enforcement officers” with the current “law enforcement officers.” *See* U.S.S.G. Amend. 666 (effective Nov. 1, 2004).