

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-3039

September Term 2011

1:09-cr-00087-CKK-1

Filed On: December 9, 2011

United States of America,

Appellee

v.

Abdul Karim Khanu,

Appellant

BEFORE: Sentelle*, Chief Judge; Brown, Circuit Judge; and Ginsburg* Senior Circuit Judge

ORDER

Upon consideration of the petition of appellant for panel rehearing filed October 21, 2011, it is

ORDERED that the petition be denied. It is

FURTHER ORDERED that the opinion filed October 7, 2011, be amended as follows:

Slip Op., delete the second sentence of the second full paragraph on p. 11 through the end of the paragraph on p. 12, and insert in lieu thereof:

We affirm the sentence because the district court made sufficient factual findings at sentencing to support the inclusion of the \$1.9 million in the calculation of tax loss notwithstanding Khanu's "repayment" of those funds to his corporations. See U.S.S.G. § 2T1.1(c) (1), (5) ("the tax loss is the total amount of loss that was the object of the offense (i.e., the loss that would have resulted had the offense been successfully completed)" and is "not reduced by any payment of the tax subsequent to the commission of the offense"); see also § 1B1.3(a) & cmt., n.1 (relevant offense conduct for purposes of sentencing is not limited to acts for which defendant is criminally liable and includes "all acts and omissions

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committed ... by the defendant ... that occurred during the commission of the offense, in preparation for that offense, or in the course of attempting to avoid detection or responsibility for that offense").

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Michael C. McGrail

Deputy Clerk

* Chief Judge Sentelle would grant the petition.

* As of the date the petition was filed Judge Ginsburg had taken senior status.