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States Court of Appeals  
for the Third Circuit

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6-4-2003

## USA v. McNeil

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NOT PRECEDENTIAL

THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 02-3192  
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UNITED STATES OF AMERICA

vs.

MARPESSA F. McNEIL

Appellant.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. Criminal No. 01-cr-00599-1)  
District Judge: The Honorable John R. Padova

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Submitted Under Third Circuit LAR 34.1(a)  
May 23, 2003

BEFORE: SCIRICA, Chief Judge, SLOVITER, and NYGAARD, Circuit Judges.

(Filed: June 4, 2003)

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OPINION OF THE COURT  
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NYGAARD, Circuit Judge.

This is an appeal by Marpessa McNeil from an order of the District Court that imposed a two-level upward departure pursuant to U.S.S.G. § 3B1.3 because McNeil abused a position of trust. McNeil, however, agreed to this enhancement by the terms of the plea agreement. So, we will affirm.

McNeil was charged with conspiracy (1) to defraud federally insured financial institutions by fraudulent use of stolen credit information, in violation of Title 18 U.S.C. § 1344; and (2) to knowingly and with intent to use unauthorized access devices and access devices issued to other persons in order to obtain automobiles worth more than \$1,000 each, in violation of Title 18 U.S.C. § 1029. McNeil signed and entered into a written plea agreement with the government, pleading guilty to the conspiracy count. McNeil now argues that the District Court improperly imposed the two-level sentence increase for abuse of a position of trust. But the plea agreement explicitly states:

10. Pursuant to § 6B1.4 of the Sentencing Guidelines, the parties enter into the following stipulations under the Sentencing Guidelines

...

c. The offense level is increased by 2 levels because the defendant abused a position of trust in a manner that

significantly facilitated the commission of the offense.

U.S.S.G. § 3B1.3.

By signing this plea agreement, McNeil specifically agreed that the abuse of trust enhancement should be applied. McNeil is bound by the stipulation, and we will affirm.

TO THE CLERK:

Please file the foregoing opinion.

/s/ Richard L. Nygaard  
Circuit Judge