NOT PRECEDENTIAL

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-1295

UNITED STATES OF AMERICA

v.

ERRIN SHEARD,

Appellant

Appeal from the United States District Court
For the District of New Jersey
D.C. No.: 04-cr-00545-1
District Judge: Honorable Robert B. Kugler

Submitted Under Third Circuit LAR 34.1(a) January 13, 2006

Before: ROTH, FUENTES, and ROSENN*, Circuit Judges

(Filed: February 22, 2006)

OPINION OF THE COURT

FUENTES, Circuit Judge.

While serving a sentence for bank robbery, Errin Sheard was convicted of simple assault against a corrections officer, Christopher Johnson. Sheard hit Johnson in the nose

* Judge Rosenn passed away before the release of this opinion.

while the two were in a prison stairwell, and Johnson received medical treatment. Sheard testified at trial that he swung at Johnson in self-defense after Johnson hit him in the back of the head and tried to throw him to the ground. In support of his self-defense claim, Sheard attempted to cross-examine two government witnesses at trial about Johnson's reputation for aggressive behavior, but the District Court refused to allow the questioning. Sheard now appeals, arguing that the District Court should not have excluded this line of cross-examination.[1]

This Court reviews a District Court's decision on the admissibility of evidence for abuse of discretion. United States v. Serafini, 233 F.3d 758, 768 n.14 (3d Cir. 2000). However, we exercise plenary review over the Court's construction of the Federal Rules of Evidence. United States v. Johnson, 388 F.3d 96, 100 (3d Cir. 2004).

After considering the record and the submissions of the parties, we conclude that Sheard's claims on appeal are without merit. The judgment of the District Court is affirmed.

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[1] The District Court had jurisdiction over this federal criminal case pursuant to § 18 U.S.C. 3231. This Court has jurisdiction over Sheard's appeal pursuant to 28 U.S.C. § 1291.