

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-2747SD

United States of America,

Appellee,

v.

Phillip Joseph Touche, Jr.,

Appellant.

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* On Appeal from the
* United States District Court
* for the District of
* South Dakota.
*
* [Not To Be Published]
*
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Submitted: February 13, 2001

Filed: February 23, 2001

Before RICHARD S. ARNOLD, LAY, and HANSEN, Circuit Judges.

PER CURIAM.

The defendant, Phillip Joseph Touche, Jr., pleaded guilty to a one-count indictment charging him with involuntary manslaughter in violation of 18 U.S.C. §§ 1153 and 1112. At sentencing, the District Court¹ denied defendant's request that

¹The Hon. Richard H. Battey, United States District Judge for the District of South Dakota.

he be given a two-level reduction for acceptance of responsibility pursuant to U.S. Sentencing Guidelines § 3E1.1(a). Mr. Touche appeals, and we affirm.

The sentence imposed was 33 months. The crime involved the death of a passenger in a car driven by the defendant, who was intoxicated at the time. Initially, defendant was released on bond, and agreed that he would refrain from any use of alcohol. Either that day or the next defendant was arrested by the Lower Brule Police Department, and a blood-alcohol test showed him with a level of .180. Defendant's bond was then revoked.

As its reason for denying the acceptance-of-responsibility reduction, the District Court cited defendant's conduct in drinking to excess immediately after his release on bond. We see no error of law or abuse of discretion in this situation. See United States v. Goings, 200 F.3d 539 (8th Cir. 2000). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.