

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 13-3700

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

MAY - 9 2014

DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
 Plaintiff-Appellee,)
)
 v.)
)
 MICHAEL PARKER,)
)
 Defendant-Appellant.)
)
)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF
OHIO

ORDER

Before: ROGERS and WHITE, Circuit Judges; FORESTER, District Judge.*

Michael Parker appeals his conviction for a violation of 18 U.S.C. § 371, which was entered pursuant to his plea of guilty. On appeal, he challenges the district court’s factual basis for accepting his 2009 guilty plea. The parties have waived oral argument, and we unanimously agree that oral argument is not needed. Fed. R. App. P. 34(a).

Parker did not challenge the district court’s acceptance of his plea below; therefore, his argument is reviewed for plain error. *United States v. Vonn*, 535 U.S. 55, 59 (2002). A plea may be accepted only if there is a factual basis for finding that each element of an offense is satisfied based on a review of the plea hearing record, including examination of the statements made by

*The Honorable Karl S. Forester, Senior United States District Judge for the Eastern District of Kentucky, sitting by designation, concurred in this decision prior to his death on March 29, 2014.

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witnesses, prosecutors, and the defendant as well as statements in the plea agreement that the defendant acknowledged as accurate. Fed. R. Crim. P. 11(b)(3); *United States v. Mobley*, 618 F.3d 539, 545 (6th Cir. 2010); *United States v. Baez*, 87 F.3d 805, 810 (6th Cir. 1996).

Section 371 provides that a person may be prosecuted for conspiring to commit any offense or conspiring to defraud the United States. 18 U.S.C. § 371. Parker pleaded guilty to a conspiracy to defraud the United States. The record establishes that the district court had a sufficient basis for accepting his plea. *See* Fed. R. Crim. P. 11(b)(3). Parker acknowledged in his plea agreement that he was pleading guilty to a “conspiracy to defraud” the Internal Revenue Service, which is an arm of the United States. At his plea hearing, the prosecution presented the testimony of a special agent who provided a recitation of the facts underlying the conspiracy. Parker agreed that he and others were involved “in a scheme to market and sell . . . a sham tax shelter,” that he and his conspirators made more than \$8 million in fees from those transactions, and that the resulting improper tax deductions caused a loss of more than \$64 million to the United States.

Accordingly, the district court’s judgment is affirmed.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk