

JAN 28 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRENDA KAYE GRAHAM,

Defendant - Appellant.

No. 06-30602

D.C. No. CR-06-00015-JDS

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Jack D. Shanstrom, District Judge, Presiding

Submitted January 14, 2008\*\*

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Brenda Kaye Graham appeals from her 10-month sentence imposed following her guilty-plea conviction for Social Security fraud, in violation of 42 U.S.C. § 408(a)(7)(B). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We conclude that the district court did not clearly err in finding that Graham did not intend to repay the amounts she charged on the fraudulently obtained credit cards. Therefore, the district court properly attributed the amount of “intended loss” in calculating Graham’s advisory Sentencing Guidelines range. *See* U.S.S.G. § 2B1.1 cmt. n.3(A)(ii); *see also United States v. Shaw*, 3 F.3d 311, 312-13 (9th Cir. 1993) (‘intended loss’ is the amount that defendant subjectively intended not to repay).

We conclude that the record indicates that, when sentencing the defendant, the district court properly considered the arguments raised by counsel concerning the factors contained in 18 U.S.C. § 3553(a), and articulated its reasoning to the degree required for meaningful appellate review. *See Rita v. United States*, 127 S. Ct. 2456, 2469 (2007).

**AFFIRMED.**