

January 4, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-50219  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHELLE MITCHELL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:00-CR-39-2  
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Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges

PER CURIAM:\*

Michelle Mitchell appeals the 24-month sentence she received following the revocation of her supervised release. She contends that the district court erred in calculating the applicable recommended sentencing range because it classified her release violation as a Grade A violation rather than a Grade B violation. The Government does not contest Mitchell's assertion that hers was a Grade B violation. Instead, the Government asserts that the error did not amount to reversible plain error.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We agree. Although Mitchell has demonstrated obvious error based on the guidelines miscalculation, she has failed to demonstrate that the error affected her substantial rights. Cf. United States v. Olano, 507 U.S. 725, 731-37 (1993). The sentence imposed fell within the two-year statutory maximum authorized upon revocation, and Mitchell has not shown that the district court would have imposed a lesser sentence but for the guidelines miscalculation. See id.; see also 18 U.S.C. §§ 472, 3559(a), 3583(e)(3).

AFFIRMED.