

August 20, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41682
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIE MARGARET BROWN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-02-CR-786-1

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Marie Margaret Brown appeals from the sentence imposed for transporting illegal aliens within the United States in violation of 8 U.S.C. § 1324. She argues that the district court erred by increasing her offense level under U.S.S.G. § 2L1.1(b)(5) because her offense involved intentionally or recklessly creating a substantial risk of death or serious bodily injury to the illegal aliens she transported. Because the transportation of aliens in the trunk of a vehicle is specifically listed in the comments to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S.S.G. § 2L1.1(b)(5) as the type of conduct contemplated by the Sentencing Commission in drafting this guideline provision and because the district court determined that the aliens being transported in the trunk of an automobile without seats or restraints were susceptible to serious bodily injury or death in the event of an accident, the district court did not err in increasing Brown's offense level under U.S.S.G. § 2L1.1(b)(5). See U.S.S.G. § 2L1.1, comment. (n.6). Accordingly, the district court's judgment is AFFIRMED.