

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 12, 2013

Lyle W. Cayce
Clerk

No. 13-30136
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

ISAAC ABDI HASHI,

Defendant–Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:12-CR-165-1

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Isaac Hashi appeals the sentence imposed for his conviction of assaulting, resisting, or impeding a federal officer in violation of 18 U.S.C. § 111(a)(1)

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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and (b). He claims the district court erred by enhancing his offense level pursuant to U.S.S.G. § 3A1.2(b), because there was insufficient evidence on which to find that his attack was motivated by the victim's status as a federal officer and that the application of the six-level enhancement amounted to double-counting of the victim's status. Because Hashi preserved those arguments in the district court, we review for harmless error. *United States v. Delgado-Martinez*, 564 F.3d 750, 753 (5th Cir. 2009).

The district court determined that Hashi was a career offender and applied U.S.S.G. § 4B1.1 to arrive at the total offense level. The court then upwardly departed pursuant to U.S.S.G. § 4A1.3(a)(1) based on its conclusion that Hashi's criminal history was underrepresented by the guidelines calculations. The six-level enhancement was not used to arrive at Hashi's total offense level, "did not affect the district court's selection of the sentence imposed," and did not affect substantial rights. *See Delgado-Martinez*, 564 F.3d 750, 753; *see also United States v. Chon*, 713 F.3d 812, 821 (5th Cir. 2013), *petition for cert. filed* (July 9, 2013) (No. 13-50). Accordingly, any error was harmless. *See United States v. Guevara*, 408 F.3d 252, 261 (5th Cir. 2005).

The judgment is AFFIRMED.