

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

No. 14-40358
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 2, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

ISSY AVILA-BAULE,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 1:13-CR-790-1

Before DAVIS, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Issy Avila-Baule appeals her 36-month within-guidelines sentence for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 14-40358

illegal reentry after deportation. She claims that the district court plainly erred in applying the eight-level enhancement under U.S.S.G. § 2L1.2(b)(1)(C) based on a finding that her Texas conviction of felony theft was an aggravated felony. She contends that Texas’s theft statute encompasses conduct broader than the generic, contemporary definition of theft because the Texas statute includes the appropriation of property when it is with consent that has been induced through deception or coercion. In *United States v. Rodriguez-Salazar*, 768 F.3d 437, 438 (5th Cir. 2014), we rejected that theory and held that the Texas theft statute, as set forth in Texas Penal Code § 31.03, “does not deviate from the generic crime of theft.”

AFFIRMED.