

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

No. 14-40677
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 20, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARIA LETICIA GUTIERREZ-OROZCO, also known as Leticia Gutierrez-Orosco,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:14-CR-394

Before HIGGINBOTHAM, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Maria Leticia Gutierrez-Orozco appeals the 46-month sentence imposed following her guilty plea conviction for being found in the United States after a previous deportation. For the first time on appeal, she contends that the district court plainly erred in imposing a 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(i) based on her prior federal convictions for conspiracy 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

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distribute 50 or more grams of methamphetamine and conspiracy to distribute 500 or more grams of cocaine because the statute of conviction, 21 U.S.C. § 846, does not require proof of commercial activity or proof of an overt act.

This argument is foreclosed by our holdings in *United States v. Martinez-Lugo*, 782 F.3d 198, 204-05 (5th Cir. 2015), *United States v. Rodriguez-Bernal*, 783 F.3d 1002, 1003, 1008 (5th Cir. 2015), and *United States v. Rodriguez-Escareno*, 700 F.3d 751, 754-55 (5th Cir. 2012). Accordingly, Gutierrez-Orozco has shown no clear or obvious error with regard to her sentence. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

AFFIRMED.