

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

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No. 16-11389  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

March 27, 2018

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

SARAH KIRKPATRICK,

Defendant - Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:15-CR-271-4

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Before BARKSDALE, PRADO, and OWEN, Circuit Judges.

PER CURIAM:\*

Sarah Kirkpatrick pleaded guilty to conspiracy to possess, with intent to distribute, methamphetamine, in violation of 21 U.S.C. §§ 841 and 846. She was sentenced to 100 months' imprisonment. In the single issue presented on appeal, Kirkpatrick claims the district court erred by increasing her offense level by two for possessing a firearm in connection with the offense (the issue). U.S.S.G. § 2D1.1(b)(1).

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\* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

No. 16-11389

“Where a defendant has intentionally relinquished or abandoned a known right, the issue is waived” and we “cannot address it”. *United States v. Rico*, 864 F.3d 381, 383 (5th Cir.), *cert. denied*, 138 S. Ct. 487 (2017). As in *Rico*, Kirkpatrick, after her initial objection to the presentence investigation report (PSR), in which she included the issue, did not pursue the issue in district court. *Rico*, 864 F.3d at 383–84.

In that regard, the court issued a tentative written ruling against Kirkpatrick’s objections to assist the parties in their preparation for the sentencing hearing, but repeatedly asked Kirkpatrick at sentencing if she had objections other than those she asserted at the hearing. *Id.* By her silence on the issue in her further written objections to the PSR and at sentencing, and especially her advising the court at sentencing that it did not need to be concerned with the original objections to the PSR, which included the issue now presented on appeal, Kirkpatrick waived her challenge to the issue. *Id.*

AFFIRMED.