

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

No. 16-40156
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
October 27, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LUTHER JAMES BUSH, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:15-CR-901-1

Before JONES, WIENER, and CLEMENT, Circuit Judges.

PER CURIAM:*

Luther James Bush, Jr., appeals his 44-month prison sentence resulting from his guilty plea conviction for one count of transportation of an undocumented alien, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii), (a)(1)(A)(v)(II), (a)(1)(B)(ii). The district court enhanced Bush's sentence pursuant to U.S.S.G. § 2L1.1(b)(6) after it determined that Bush intentionally or recklessly created a substantial risk of death or serious bodily injury to the 16 aliens he was

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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transporting. Bush contends that the facts of his offense do not warrant the sentence enhancement.

We review a district court's interpretation of the Guidelines de novo and review its factual findings for clear error. *See United States v. Solis-Garcia*, 420 F.3d 511, 514 (5th Cir. 2005); *United States v. Cuyler*, 298 F.3d 387, 389 (5th Cir. 2002). The record reflects that Bush was transporting 16 persons in the sleeper compartment of the tractor-trailer, that the sleeper compartment was not designed to accommodate 16 persons, and that it did not have any safety restraints. As the commentary to § 2L1.1 gives "carrying substantially more passengers than the rated capacity of a motor vehicle" and "harboring persons in a crowded, dangerous, or inhumane condition" as examples of reckless conduct that would support a sentence enhancement under that Guideline, we perceive no error in Bush's sentence. *See* § 2L1.1, comment. (n.5).

AFFIRMED.